

SCHEDULE 3

THE LOCAL GOVERNMENT ACT REFERENDUMS RULES

PART 5

The Poll

Admission to polling station

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

- (a) voters and proxies;
- (b) persons under the age of 18 who accompany voters and proxies to the polling station;
- (c) the polling observers appointed to attend at the polling station;
- (d) the clerks appointed to attend at the polling station;
- (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;
- (f) the constables on duty;
- (g) the companions of voters and proxies with disabilities;
- (h) the elected mayor, if any, of the council in respect of which the referendum is held; and
- (i) any petition organiser.

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

(3) A constable or person employed by a counting officer must not be admitted to vote in person elsewhere than at his or her own polling station allotted to him or her under these Rules, except on production and surrender of a certificate as to his or her 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 counting officer, as the case may be.

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

Keeping of order in station

22.—(1) It is the presiding officer's duty to keep order at his or her polling station.

(2) If a person misconducts himself or herself in a polling station, or fails to obey the presiding officer's lawful orders, that 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 counting 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 must not be exercised so as to prevent a voter or proxy who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Sealing of ballot boxes

23. 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 or her seal on it in such a manner as to prevent its being opened without breaking the seal and must place it in his or her 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 and proxies

24.—(1) At the time of the application for a ballot paper (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 a petition organiser or polling observer 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 a voter | (a)—Are you the person registered in the register of local government electors for this voting area as follows? <i>(read the whole entry from the register)</i> [R] (b)—Have you already voted here or elsewhere at this referendum, otherwise than as proxy for some other person? [R] |
| 2 | A person applying as proxy | (a)—Are you the person whose name appears as AB in the list of proxies for this voting area as entitled to vote as proxy on behalf of CD? [R] (b)—Have you already voted here or elsewhere at this referendum as proxy on behalf of CD? [R] (c)—Are you the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of CD? [R] |
| 3 | A person applying as proxy for a voter 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 voter whose number on the register of electors is <i>(read out the number)</i> ? [R] (b)—Have you already voted here or elsewhere as proxy on behalf of the voter 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 referendum on behalf of two persons of whom you are not |

| <i>Q no</i> | <i>Person applying for ballot paper</i> | <i>Question</i> |
|-------------|--|---|
| | | the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild? [R] |
| 5 | A person applying as a voter 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 a person 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 that person 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 or proxy

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

- (a) any petition organiser or polling observer permitted to be present in accordance with rule 21(1) declares that he or she 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 or she is suspected of committing or of being about to commit such an offence.

Voting procedure

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

- (a) the number and (unless paragraph (2) applies) name of the voter as stated in the copy of the register of electors must be called out;
- (b) the number of the voter as stated in the register must be marked on the list mentioned in rule 17(3)(d) beside the number of the ballot paper to be issued to him or her;
- (c) a mark must be placed in the copy of the register of electors against the number of the voter to note that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (d) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his or her name in the list of proxies.

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

(3) In the case of a voter who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act, 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 (b), for “in the register” substitute “on the copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”;
- (c) in sub-paragraph (c), for “in the copy of 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 or proxy, on receiving the ballot paper, must forthwith proceed into one of the compartments in the polling station and there secretly mark his or her paper and fold it up so as to conceal his or her 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 or proxy must vote without undue delay, and must leave the polling station as soon as he or she has put his or her ballot paper into the ballot box.

Votes marked by presiding officer

27.—(1) The presiding officer, on the application of a voter or proxy—

- (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 or she is unable to read,

must, in the presence of the polling observers (if any), cause that person’s vote to be marked on a ballot paper in the manner directed by that person, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every person 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”).

In the case of a person voting as proxy for a voter, the number to be entered together with the proxy’s name shall be the number in the register of the voter.

(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 person” there were substituted “relating to every person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act”.

Voting by persons with disabilities

28.—(1) If a voter or proxy 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 or she is accompanied (in these Rules referred to as “the companion”), the presiding officer must require the voter or proxy to declare, orally or in writing, whether he or she is so incapacitated by his or her blindness or other disability, or by his or her inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter or proxy 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 or proxy 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 or proxy with disabilities to vote at the referendum,

the presiding officer must grant the application, and then anything which is by these Rules required to be done to or by that voter or proxy in connection with the giving of his or her vote may be done to, or with the assistance of, the companion.

(3) For the purposes of these Rules, a person is a voter or proxy with disabilities if he or she has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter or proxy with disabilities to vote if that person—

- (a) is a person who is entitled to vote on his or her own behalf at the referendum; or
- (b) is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter or proxy and has attained the age of 18 years.

(4) The name and number in the register of electors of every person 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 or proxies with disabilities assisted by companions”).

In the case of a person voting as proxy for a voter, the number to be entered together with the proxy’s name shall be the number in the register of the voter.

(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 person” there were substituted “relating to every person 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 of a voter or proxy with disabilities—
 - (a) must be in the form in the Appendix;
 - (b) must be made before the presiding officer at the time when the voter or proxy applies to vote with the assistance of a companion; and
 - (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

- 29.**—(1) If a person, representing himself or herself to be—
- (a) a particular voter 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 a voter and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the voter or his or her proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the provisions of rule 30, to mark a ballot paper (in these Rules referred to as “a tendered ballot paper”) in the same manner as any other voter or proxy.

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

- (a) a person applies for a ballot paper representing himself or herself to be a particular person named as a proxy in the list of proxies;
 - (b) he or she is also named in the proxy postal voters list; and
 - (c) he or she claims that he or she 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 provisions of rule 30, to mark a ballot paper (in these Rules referred to as a “tendered ballot paper”) in the same manner as any other voter or proxy.
- (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 or herself to be—
- (a) a particular voter 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 or she has lost or has not received his or her 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 rule 30, to mark a ballot paper (in these Rules referred to as a “tendered ballot paper”) in the same manner as any other voter or proxy.

Tendered ballot papers: general provisions

- 30.**—(1) A tendered ballot paper must—
- (a) be of a colour differing from that of the other ballot papers;
 - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him or her with the name of the person who has marked a tendered ballot paper and that person’s number in the register of electors, and set aside in a separate packet.
- (2) The name of the person who has marked a tendered ballot paper and his or her 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 a voter, the number to be endorsed or entered together with the proxy’s name shall be the number in the register of the voter.
- (4) In the case of a voter who has an anonymous entry, this rule and rule 29 apply subject to the following modifications—
- (a) in paragraphs (1)(b) and (2) above, the references to the name of the person who has marked a tendered ballot paper 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 in 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, this rule and rule 29 shall apply as if—
- (a) in rule 29(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 “that person’s number in the register of electors” there were substituted “the number relating to him or her on a notice issued under section 13B(3B) or (3D) of the 1983 Act”;
 - (c) in paragraph (2) of this rule, for “his or her number in the register of electors” there were substituted “the number relating to him or her on a notice issued under section 13B(3B) or (3D) of the 1983 Act”.

Spoilt ballot papers

31. A voter or proxy who has inadvertently dealt with his or her 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 or her 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

32. 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

33.—(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 counting 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.

Procedure on close of poll

34.—(1) As soon as practicable after the close of the poll, the presiding officer must, in the presence of the polling observers (if any), make up into separate packets, sealed with his or her own seal and the seals of such polling observers 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 spoilt 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 8 including the parts which were completed in accordance with rule 26(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 and proxies with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters and proxies whose votes are so marked by the presiding officer under the heads “disability” and “unable to read”, the list maintained under rule 32 (correction of errors on day of poll), and the declarations made by the companions of voters and proxies with disabilities,

and must deliver the packets or cause them to be delivered to the counting officer to be taken charge of by that person; but if the packets are not delivered by the presiding officer personally to the counting officer, the arrangements for their delivery shall require the counting 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 or her, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.