

SCHEDULE 3

Combined Authority Mayoral Election (Combination of Polls) Rules

PART 6

Final proceedings in contested and uncontested elections

Combined authority returning officer's re-count

57.—(1) Once the combined authority returning officer has received the report of any returning officer on the contents of his or her provisional statement prepared under rule 47(8), 54(1) or 56(2), the combined authority returning officer may direct the returning officer to re-count (or further re-count) the votes.

(2) A re-count directed by the combined authority returning officer under paragraph (1) may be of the votes in all the electoral area, or in such part of the electoral area as the combined authority returning officer considers reasonable.

(3) A returning officer must proceed with a re-count as soon as practicable after receipt of the combined authority returning officer's direction, and if not proceeding forthwith shall notify those counting observers entitled to be present at the re-count of the time and place at which the returning officer will begin to re-count the votes.

Combined authority returning officer's direction to count second preference votes

58.—(1) This rule applies if there are more than two candidates to be a combined authority mayor.

(2) If none of the candidates receive more than half of all first preference votes given in the election, the combined authority returning officer must direct each returning officer to count the number of second preference votes for each of the candidates remaining in the contest.

Returning officer's final statement, central calculation and declaration of result

59.—(1) When the combined authority returning officer has determined not to direct that any re-count (or further re-count) must take place, he or she must direct the returning officers to draw up a final statement of the matters referred to in rule 47(8), 54(1) and, where applicable, 56(2) and to provide final versions of their statements of rejected ballot papers.

(2) The returning officer, having drawn up the final statement, must—

- (a) forthwith inform the combined authority returning officer of its contents, and
- (b) as soon as reasonably practicable give the combined authority returning officer notice of the number of rejected ballot papers under each head shown in the final statement of rejected ballot papers.

(3) When authorised by the combined authority returning officer to do so, the returning officer must—

- (a) make a declaration of the matters referred to in the final statement, and
- (b) give public notice of those matters together with the number of rejected ballot papers under each head shown in the final statement of rejected ballot papers.

(4) The combined authority area returning officer—

- (a) must make arrangements for the making of the calculation under this rule in the presence of the election agents, and

(b) must give to those agents notice in writing of the time and place at which the calculation will begin.

(5) No person other than—

- (a) the combined authority area returning officer and the officer's clerks;
- (b) the returning officers and a clerk chosen by each of them;
- (c) the candidates and one person chosen by each of them;
- (d) the election agents;
- (e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000⁽¹⁾,

may be present at a calculation, unless permitted by the combined authority returning officer to attend.

(6) A person not entitled to attend a calculation must not be permitted to do so by the combined authority area returning officer unless the officer—

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

(7) As soon as the combined authority returning officer has received the information required by paragraph (3) from every returning officer, the combined authority returning officer must—

- (a) in relation to an election contested by three or more candidates, ascertain the total of the first preference votes given to each candidate and, where relevant, the total of the second preference votes given to each candidate;
- (b) in relation to an election contested by only two candidates, ascertain the total number of votes given to each candidate.

(8) As soon as the combined authority area returning officer has ascertained the result of the calculation, the officer must inform such of the election agents as are then present of the relevant figures and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation.

(9) A person informed of the relevant figures under paragraph (8) may require the combined authority returning officer to make a calculation again but the officer may refuse to do so if in the officer's opinion the request is unreasonable.

(10) In paragraphs (8) and (9), "the relevant figures" means—

- (a) in the case of an election contested by three or more candidates—
 - (i) the number of first preference votes given for each candidate,
 - (ii) the calculation undertaken by the combined authority returning officer for the purpose of ascertaining whether a candidate is to be returned in accordance with paragraph 5(2) of Schedule 5B to the 2009 Act (candidate with overall majority of first preference votes);
 - (iii) where relevant—
 - (aa) the number of second preference votes given for each of the candidates remaining in the contest, and
 - (bb) the calculation undertaken by the combined authority returning officer for the purpose of ascertaining the total number of first and second preference votes given to each of those candidates.

(1) 2000 c. 41. Sections 6A to 6D were inserted by the Electoral Administration Act 2006 (c. 22), section 29.

(11) in the case of an election contested by only two candidates, the total number of votes given for each candidate.

(12) Where—

- (a) an election is contested by only two candidates, and
- (b) the total number of votes for each of them is unequal,

the combined authority returning officer must declare the candidate to whom the majority of the votes is given as the person to be returned as the combined authority mayor.

(13) Where—

- (a) an election is contested by only two candidates, and
- (b) the total number of votes given for each of them is equal,

the combined authority returning officer must decide by lots which of them is to be returned as the combined authority mayor.

(14) Where an election is contested by three or more candidates, the combined authority returning officer must—

- (a) if one of candidates receives more than half of all the first preference votes given in the election, declare that candidate as the person to be returned as the combined authority mayor, or
- (b) if none of the candidates receive more than half of all the first preference votes given in the election, declare the candidate with the most total preference votes as the person to be returned as the combined authority mayor.

(15) If, after the second preference votes have been counted, the total number of votes given for two or more candidates remaining in the contest is equal, the combined authority returning officer must decide by lots which of them is to be returned as the combined authority mayor.

(16) The combined authority returning officer must give public notice of—

- (a) the name of the successful candidate,
- (b) the total number of first preference votes given for each candidate,
- (c) the number of rejected ballot papers at the election under each head shown in the statement of rejected ballot papers (rule 51(5)), and
- (d) if second preference votes were counted—
 - (i) the total number of second preference votes given for each of the candidates remaining in the contest after the count of the first preference votes, and
 - (ii) the number of ballot papers rejected for the purposes of the count of second preference votes on the ground that they were unmarked or void for uncertainty as to the second preference vote.

(17) In an uncontested election, the combined authority returning officer must as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature—

- (a) declare to be elected the person remaining validly nominated,
- (b) give public notice of the name of the person declared to be elected.

(18) The combined authority returning officer must inform the proper officer of the combined authority concerned of the result of the election.

Return or forfeiture of candidate's deposit

60.—(1) Unless forfeited in accordance with paragraph (5), the deposit made under rule 10 of these Rules shall be returned to the person making it or that person's personal representative.

(2) Subject to paragraph (4), the deposit shall be returned not later than the next day after that on which the result of the election is declared.

(3) For the purposes of paragraph (2)—

(a) a day shall be disregarded if it would be disregarded under rule 4 in computing any period of time for the purpose of the timetable for a combined authority mayoral election, and

(b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If the candidate is not shown as standing nominated in the statement of persons nominated, or if proof of the candidate's death has been given to the combined authority returning officer before the conclusion of the first count, the deposit shall be returned as soon as practicable after the publication of the statement or after the death, as the case may be.

(5) Where a poll is taken, if, after the conclusion of the first count, the candidate is found not to have polled more than one-twentieth of the total number of first preference votes polled by all the candidates, the deposit shall be forfeited to the combined authority.