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SCHEDULES

SCHEDULE 5

COMBINATION OF POLLS: ENGLAND

PART 1

PROVISION ABOUT COMBINATION

COUNTING OF VOTES

Attendance and arrangements for counting

- 38 (1) The counting officer must make arrangements for counting the ballot papers and carrying out the other functions conferred by paragraph 42 in the presence of the counting agents.
- (2) The counting officer must give the counting agents notice in writing of the time and place at which the proceedings under paragraph 42 will begin.
- (3) A person may be present at the proceedings under paragraph 42 only if—
- (a) the person is entitled to be present at the counting of the votes for the referendum or a relevant election, or
 - (b) the person is permitted by the counting officer to attend.
- (4) The counting officer may give a person permission under sub-paragraph (3)(b) only if—
- (a) the officer is satisfied that the person's attendance will not impede the efficient conduct of the proceedings, and
 - (b) the officer has consulted the referendum agents and election agents or thought it impracticable to do so.
- (5) The counting officer must give the counting agents—
- (a) whatever reasonable facilities for overseeing the proceedings, and
 - (b) whatever information with respect to the proceedings,
- the officer can give them consistently with the orderly conduct of the proceedings and the discharge of the officer's duties.
- 39 Rule 39(1) of the referendum rules (arrangements for the counting of votes in the referendum) has effect with the omission of the words "after the close of the poll".
- 40 (1) The returning officer for a relevant election must make arrangements for counting the votes in the presence of the counting agents for the relevant election as soon as practicable after receiving the ballot papers from the counting officer under paragraph 43.

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- (2) The returning officer must give the counting agents for the relevant election notice in writing of the time and place at which the counting of the votes for the relevant election will begin.
 - (3) A person may be present at the counting of the votes for a relevant election only if—
 - (a) the person is permitted by the returning officer to attend, or
 - (b) the person would be entitled to be present at the counting of votes for the relevant election if it were taken on its own.
 - (4) The returning officer may give a person permission under sub-paragraph (3)(a) only if—
 - (a) the officer is satisfied that the person’s attendance will not impede the efficient counting of the votes, and
 - (b) the officer has consulted the election agents or thought it impracticable to do so.
 - (5) The returning officer must give the counting agents for the relevant election—
 - (a) whatever reasonable facilities for overseeing the proceedings, and
 - (b) whatever information with respect to the proceedings,
 the officer can give them consistently with the orderly conduct of the proceedings and the discharge of the officer’s duties.
 - (6) In particular, where the votes are counted by sorting the ballot papers into lots according to the votes marked on them and then counting the number of ballot papers in each lot, the counting agents for the relevant election are entitled to satisfy themselves that the ballot papers are correctly sorted.
- 41 Paragraphs 38 and 40 apply instead of—
- (a) rule 44 of the Local Elections (Combination of Polls) Rules;
 - (b) rule 44 of the Parish Elections (Combination of Polls) Rules;
 - (c) rule 37 of the Local Referendums (Combination of Polls) Rules;
 - (d) rule 46 of the Mayoral Elections (Combination of Polls) Rules.

Counting and separation of ballot papers by counting officer

- 42 (1) As soon as practicable after the close of the poll the counting officer must—
- (a) in the presence of the counting agents, open the ballot boxes and count and record separately the number of ballot papers relating to the referendum and each relevant election;
 - (b) where proceedings on the issue and receipt of postal ballot papers for the referendum and the relevant elections are taken together, count the postal ballot papers that have been duly returned for the referendum and the relevant elections and record separately the number relating to each;
 - (c) where proceedings on the issue and receipt of postal ballot papers for the referendum and the relevant elections are not taken together, count the postal ballot papers that have been duly returned for the referendum and record the number;
 - (d) separate ballot papers relating to the referendum and those relating to each relevant election.
- (2) Rule 40(3) of the referendum rules applies for the purposes of any combined polls; but where proceedings on the issue and receipt of postal ballot papers are not taken

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together by virtue of regulation 65 of the Representation of the People (England and Wales) Regulations 2001, a reference in rule 40(3) to a counting officer is to be read in relation to the return of ballot papers for a relevant election as a reference to the returning officer for that relevant election.

- (3) The counting officer must not count any tendered ballot papers.
- (4) The counting officer, while counting and recording the number of ballot papers, must—
 - (a) keep the ballot papers with their faces upwards, and
 - (b) take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (5) The counting officer must, in the presence of the referendum agents and the election agents for the relevant elections—
 - (a) verify each ballot paper account by comparing it with the number of ballot papers recorded by the officer, and the unused and spoilt ballot papers in the 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);
 - (b) draw up a separate statement as to the result of the verification in relation to each poll.
- (6) An election agent for a relevant election may copy the statement relating to that relevant election.
- (7) A counting agent for the referendum present at the verification may copy the statement relating to the referendum.
- (8) Once the statement relating to the referendum is drawn up, the counting officer must—
 - (a) in the case of a voting area in a region for which a Regional Counting Officer is appointed, inform the Regional Counting Officer of the contents of the statement;
 - (b) in the case of any other voting area, inform the Chief Counting Officer of the contents of the statement.
- (9) Rule 40 of the referendum rules does not apply (except for the purposes of subparagraph (2) above).

Delivery of ballot papers etc to returning officers

- 43
- (1) The counting officer must deliver or cause to be delivered to the returning officer for a relevant election the ballot papers for the relevant election.
 - (2) The counting officer must also deliver or cause to be delivered to the returning officer—
 - (a) the ballot paper accounts and the statement as to the result of the verification of the ballot paper accounts for the relevant election;
 - (b) the packets of unused and spoilt ballot papers for the relevant election;
 - (c) the packets of tendered ballot papers for the relevant election;
 - (d) the packets of certificates as to employment on duty on the day of the poll for the relevant election.

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- (3) If the counting officer has not begun to count the votes given on the referendum ballot papers by the time the statements as to the result of the verification of the ballot paper accounts in relation to all the polls are prepared—
 - (a) those ballot papers must be sealed into packets, each of which must be endorsed with a description of its contents, and
 - (b) the packets may not be opened until the counting officer begins dealing with the ballot papers in those packets under paragraph 44(1).
- (4) If, in respect of a relevant election, none of the ballot papers have been delivered under sub-paragraph (1) by the time the statements as to the result of the verification of the ballot paper accounts in relation to all the polls are prepared—
 - (a) the ballot papers for that election must be sealed into packets, each of which must be endorsed with a description of its contents, and
 - (b) the packets may not be opened until the returning officer begins dealing with the ballot papers in those packets under paragraph 44(3).

Counting of votes

- 44 (1) The counting officer must count the votes given on the ballot papers for the referendum, but must not do so until—
- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
 - (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.
- (2) Where proceedings on the issue and receipt of postal ballot papers for a relevant election are not taken together with those for the referendum and any other relevant elections, the returning officer for the relevant election must count the postal ballot papers that have been duly returned and record the number counted.
- (3) The returning officer for a relevant election must count the votes given on the ballot papers for the relevant election, but must not do so until—
- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
 - (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.
- (4) The counting or returning officer, while counting the votes, must—
- (a) keep the ballot papers with their faces upwards, and
 - (b) take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (5) The counting or returning officer must so far as practicable proceed continuously with the counting of votes, allowing only time for refreshment, except that—
- (a) the officer may exclude the whole or any part of the period between 7 pm and 9 am on the next day;
 - (b) the officer may exclude a day mentioned in rule 2(1) of the referendum rules.
- (6) During the time so excluded the counting or returning officer must—
- (a) place the ballot papers and other documents relating to the referendum or relevant election under the officer's own seal and the seals of any of the counting agents who want to affix their seals, and

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(b) otherwise take proper precautions for the security of the papers and documents.

(7) This paragraph and paragraph 45 apply instead of—

- (a) rule 45 of the Local Elections (Combination of Polls) Rules;
- (b) rule 45 of the Parish Elections (Combination of Polls) Rules;
- (c) rule 38 of the Local Referendums (Combination of Polls) Rules;
- (d) rule 47 of the Mayoral Elections (Combination of Polls) Rules.

Ballot papers placed in wrong ballot box

45 Where separate ballot boxes are used for the referendum and a relevant election, the placing of a ballot paper in the wrong ballot box does not render it void.