

SCHEDULE 1

THE REGIONAL ASSEMBLY AND LOCAL GOVERNMENT REFERENDUM RULES

PART 3

Receipt by the Counting Officer of Ballot Papers

Persons entitled to be present at proceedings on receipt of ballot papers

36. No person may be present at the proceedings on the receipt of ballot papers under this Part other than—

- (a) the Chief Counting Officer, the counting officer and his clerks;
- (b) a referendum agent or a person appointed by a referendum agent to attend in his place;
- (c) any receipt agents appointed under rule 37(1); and
- (d) any person authorised by the Electoral Commission to attend at the proceedings on the receipt of ballot papers as a representative of the Commission.

Agents who may attend proceedings on receipt of ballot papers

37.—(1) Each referendum agent at the referendum may appoint one or more agents to attend the proceedings on the receipt of ballot papers (“receipt agent”) up to the number he may be authorised by the counting officer to appoint; and the number so authorised shall be the same in the case of each referendum agent.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed as receipt agents shall be given by the referendum agent to the counting officer before the time fixed for the opening of the preliminary ballot box.

(3) If a receipt agent dies or becomes incapable of acting, the referendum agent may appoint another receipt agent in his place and shall forthwith give to the counting officer notice in writing of the name and address of the receipt agent appointed.

(4) In this Part references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of receipt agents appointed under paragraph (1), who are within the number authorised by the counting officer.

(5) A referendum agent may himself do any act or thing which any receipt agent of his would have been authorised to do, or may assist his receipt agent in doing any such act or thing.

(6) Where in this Part any act or thing is required or authorised to be done in the presence of the referendum agents, the non-attendance of any such persons or person 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.

Notice of opening of preliminary ballot boxes and ballot paper envelopes

38.—(1) The counting officer shall give to each referendum agent not less than 48 hours' notice in writing of each occasion on which a preliminary ballot box and the envelopes contained in it is to be opened.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place, and
- (b) the number of receipt agents a referendum agent may appoint under rule 37(1) to attend each opening.

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Ballot boxes and receptacles

- 39.**—(1) The counting officer shall provide a separate ballot box for the reception of—
- (a) the covering envelopes when returned by the voters (“preliminary ballot box”), and
 - (b) the ballot papers (“final ballot box”).
- (2) Where there are combined polls, the counting officer—
- (a) shall provide the same preliminary ballot box for the combined polls;
 - (b) except where there are combined ballot papers, may provide the same final ballot box for the combined polls; and
 - (c) where there are combined ballot papers, shall provide the same final ballot box for the combined polls.
- (3) Each such ballot box shall be marked “preliminary ballot box” or “final ballot box”, as the case may be, and shall be clearly marked with—
- (a) the name of any referendum to which it relates;
 - (b) the referendum area to which it relates; and
 - (c) the voting area at that referendum.
- (4) The final ballot box (or boxes) shall be shown as being empty to the receipt agents present on the occasion of opening the first preliminary ballot box.
- (5) The counting officer shall then lock the final ballot box (or boxes), if capable of being locked, and apply his seal in such manner as to prevent the box (or boxes) being opened without breaking the seal, allowing any of the receipt agents present who wish to add their seals to then do likewise.
- (6) The counting officer shall provide the following receptacles—
- (a) the receptacle for rejected votes;
 - (b) the receptacle for security statements;
 - (c) the receptacle for ballot paper envelopes;
 - (d) the receptacle for rejected ballot paper envelopes; and
 - (e) the receptacle for cancelled ballot papers.
- (7) The counting officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this rule.

Receipt of covering envelope

- 40.**—(1) Where, before the close of the poll, the counting officer receives a covering envelope or any other envelope that appears to him to be likely to contain a security statement, ballot paper envelope or ballot paper, the counting officer shall immediately place it unopened in a preliminary ballot box.
- (2) The counting officer may create a list of received ballots (“list of received ballots”) by reading the ballot number—
- (a) on a covering envelope;
 - (b) where the covering envelope has a window, on a document visible through the window; or
 - (c) in the case of any other envelope that appears to him to be likely to contain a security statement, ballot paper envelope or ballot paper, on any of the documents inside the envelope.
- (3) Where the counting officer is creating a list of received ballots and—

- (a) the covering envelope has a window but a ballot number is not visible through the window;
or
- (b) the counting officer receives any other envelope that appears to him to be likely to contain a security statement, ballot paper envelope or ballot paper,

the counting officer shall mark the envelope to show that a ballot number has not been read so as to be on the list of received ballots, before placing the envelope and its contents in a preliminary ballot box.

(4) Where an envelope has been marked under paragraph (3) to show a ballot number has not been included on the list of received ballots, the ballot number on a document in the envelope (whether a security statement, ballot paper envelope or, in the case of a ballot paper envelope with a window, as visible on a ballot paper showing through that window) shall be read when the preliminary ballot box is opened and the envelopes are opened under rule 42 (opening of covering envelopes), so as to appear on the list of received ballots.

(5) When the counting officer receives a delivery point ballot box which has been delivered to him from an assistance and delivery point or contingency delivery point he shall open that ballot box and treat any ballot paper envelopes or other envelopes inside it as though they had been returned to him directly by hand or by post.

Opening of preliminary ballot box

41.—(1) Each preliminary ballot box shall be opened by the counting officer in the presence of the referendum agents and receipt agents, if any are in attendance.

(2) As long as the counting officer ensures that there is at least one sealed preliminary ballot box for the reception of covering envelopes up to the time of the close of the poll, the other preliminary ballot boxes may be opened by him before that time.

(3) The last preliminary ballot box shall be opened after the close of the poll.

(4) In this rule and rules 42 to 47, “covering envelope” means a covering envelope issued as part of a ballot pack and any other envelope that appears to the counting officer to be likely to contain a security statement, ballot paper envelope or ballot paper.

Opening of covering envelopes

42.—(1) When a preliminary ballot box is opened, the counting officer shall count and record the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where the covering envelope does not contain a security statement, the counting officer shall open any ballot paper envelope within it to ascertain whether it contains a valid security statement.

(3) Where the covering envelope (or any ballot paper envelope opened under paragraph (2)) contains more than one security statement, rules 43 to 47 shall apply to each of the security statements so found.

(4) In carrying out the procedures under rules 43 to 47, the counting officer—

- (a) before placing a security statement or a ballot paper in the receptacle for rejected votes or the receptacle for cancelled ballot papers, shall first show it and any documents attached to it to the referendum agents and receipt agents, and if any of them object to his decision, he shall add the words “rejection objected to”;
- (b) shall keep the ballot papers face down and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers.

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Valid security statements with matching ballot papers

43.—(1) Where the covering envelope contains both—

- (a) a valid security statement, and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers),

and the ballot numbers on the security statement and the ballot paper envelope (or in the case of a ballot paper envelope with a window, on the ballot paper visible through the window), or as the case may be, ballot paper, are the same, he shall place the security statement in the receptacle for security statements and the ballot paper envelope (if any) in the receptacle for ballot paper envelopes.

(2) A valid security statement is one which—

- (a) has a ballot number capable of being successfully scanned electronically;
- (b) has been duly signed by the voter; and
- (c) does not bear the same ballot number as that on a cancelled ballot paper.

(3) Where a ballot paper envelope opened under rule 42(2) contains a valid security statement, the counting officer shall—

- (a) compare the ballot number on the security statement with the ballot number on the ballot paper envelope or, where there is no ballot number on the ballot paper envelope, with the ballot number on any ballot paper it contains, and
- (b) if the ballot numbers are the same, place the security statement in the receptacle for security statements and the ballot paper envelope together with its contents in the receptacle for ballot paper envelopes.

(4) Where it appears to the counting officer that the ballot number on a valid security statement is not the same as the ballot number on the ballot paper envelope (or in the case of a ballot paper envelope with a window, on a ballot paper showing through the window), or an envelope found within the covering envelope which is not a ballot paper envelope issued by the counting officer, he shall open such envelope and place—

- (a) in the receptacle for ballot paper envelopes, any ballot paper (with its envelope (if any)) which has the same ballot number as the security statement;
- (b) in the receptacle for security statements, the valid security statement with the same ballot number as the ballot paper referred to in sub-paragraph (a);
- (c) in the receptacle for rejected votes—
 - (i) any ballot paper which does not have the same ballot number as the security statement, having marked it “provisionally rejected”; and
 - (ii) any security statement in relation to which there is no ballot paper with the same ballot number, having marked it “provisionally rejected”; and
- (d) in the receptacle for cancelled ballot papers, any cancelled ballot paper.

Rejection of invalid security statement for defacement of ballot number

44.—(1) Where the covering envelope contains a security statement which is invalid because the ballot number is so defaced that the ballot number is not capable of being successfully scanned electronically, the counting officer shall—

- (a) mark the security statement “rejected”;
- (b) open the ballot paper envelope (if any);
- (c) attach the covering envelope and any ballot paper envelope to the security statement and, place them in the receptacle for rejected votes;

- (d) mark any ballot paper as “provisionally rejected” and place it in the receptacle for rejected votes.

Rejection of invalid security statement with cancelled number

45. Where the covering envelope contains a security statement which is invalid because it bears the same ballot number as a cancelled ballot paper, the counting officer shall—

- (a) mark the security statement “rejected”;
- (b) open the ballot paper envelope (if any);
- (c) if a ballot paper (if any) has the same ballot number as the security statement, attach it to the security statement and envelope (if any) and place it in the receptacle for cancelled ballot papers;
- (d) if a ballot paper (if any) does not have the same ballot number as the security statement—
 - (i) mark the ballot paper “provisionally rejected” and place it in the receptacle for rejected votes; and
 - (ii) attach the envelope (if any) to the security statement and place both documents in the receptacle for cancelled ballot papers.

Return to the voter and rejection of invalid unsigned security statements

46.—(1) This rule applies where a covering envelope contains a security statement which is invalid only because it is not signed by the voter.

(2) Where the security statement was taken from a preliminary ballot box which was opened before 12 noon on the second day before the date of the referendum, the counting officer shall return the security statement to the voter to whom it was issued.

(3) Where the security statement was taken from a preliminary ballot box which was opened at 12 noon or afterwards on the second day before the date of the referendum, the counting officer may return it to the voter to whom it was issued but shall not if he is of the view that it is not reasonably possible to return the security statement to the voter in sufficient time for the voter to respond before the close of the poll.

(4) A security statement returned under paragraphs (1) or (2)—

- (a) shall be returned to the address to which it was sent originally, either by post or by causing it to be delivered by hand; and
- (b) shall be accompanied by a covering envelope and information explaining that if any vote cast by the voter is to be counted, the security statement must be signed and returned to the counting officer or an assistance and delivery point before the close of the poll.

(5) Any ballot paper envelope, or if there is no such envelope, ballot paper bearing the same ballot number as the security statement returned to the voter, shall be marked “provisionally rejected” and placed in the receptacle for rejected votes.

(6) Where a security statement is taken from a preliminary ballot box at 12 noon or afterwards on the second day before the date of the referendum and the counting officer decides not to return it to the voter, the counting officer shall—

- (a) mark the security statement “rejected”;
- (b) open the ballot paper envelope (if any);
- (c) if the ballot paper (if any) has the same ballot number as the security statement, attach it to the security statement and envelope (if any) and place it in the receptacle for rejected votes;

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- (d) if the ballot paper (if any) does not have the same ballot number as the security statement the counting officer shall—
 - (i) mark the ballot paper “provisionally rejected” and place it in the receptacle for rejected votes; and
 - (ii) attach the envelope (if any) to the security statement and place both documents in the receptacle for rejected votes.

Provisional rejection of other mismatched or separated security statements and ballot papers

47. Where a covering envelope does not contain both—

- (a) a security statement, and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers),

the counting officer shall, in respect of any security statement, ballot paper, and ballot paper envelope not otherwise placed in a ballot box or receptacle in accordance with rules 43 to 46, mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

Rejection of cancelled ballot papers

48. If at any stage in the procedures mentioned in this Part a cancelled ballot paper is found, but no security statement bearing the same ballot number is also found, the cancelled ballot paper shall be marked “rejected” and placed in the receptacle for cancelled ballot papers together with any ballot paper envelope which bears the same ballot number.

Opening of ballot paper envelopes

49.—(1) The counting officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the final ballot box, any ballot paper which—
 - (i) bears a ballot number capable of being read; and
 - (ii) has a ballot number the same as the ballot number on the ballot paper envelope, or where the ballot paper envelope has a window—
 - (aa) bears the ballot number that showed through the window, and
 - (bb) any other ballot paper in the same envelope that has the same number as that of the ballot paper mentioned in sub-paragraph (aa);
- (b) in the receptacle for rejected votes, having marked it “provisionally rejected”, any other ballot paper which bears a ballot number capable of being read but which is not a cancelled ballot paper; and that ballot paper shall have attached to it the ballot paper envelope;
- (c) in the receptacle for rejected votes, any other ballot paper, except for a cancelled ballot paper, which he shall mark “rejected” and to which shall be attached the ballot paper envelope; and
- (d) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” which—
 - (i) does not contain a ballot paper; or

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- (ii) where there are combined polls, contains a ballot paper for only one of the combined polls, indicating, in such a case, the missing ballot paper.
- (3) In the case of a cancelled ballot paper, the counting officer shall—
 - (a) retrieve the security statement (if any) that relates to the cancelled ballot paper from the receptacle for security statements; and
 - (b) attach the cancelled ballot paper to the security statement (if any) and place the cancelled ballot paper and any security statement in the receptacle for cancelled ballot papers.
- (4) Before placing any ballot paper in a final ballot box under this paragraph, the counting officer shall—
 - (a) detach the ballot paper from any other document to which it is attached;
 - (b) where there are combined polls, put the ballot papers into separate piles for each of the referendums to which they relate, except where combined ballot papers are used;
 - (c) count the number of ballot papers; and
 - (d) create a statement recording the number of final ballot boxes and the numbers of ballot papers in each.
- (5) Before placing a ballot paper and any attached documents in the receptacle for rejected votes or the receptacle for cancelled ballot papers, the counting officer shall show the ballot paper and any attached documents to the referendum agents and receipt agents, and if any of them object to his decision, he shall add the words “rejection objected to”.
- (6) The counting officer shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers.

Removing cancelled ballot papers from the final ballot box

- 50.**—(1) Where it appears to the counting officer that a cancelled ballot paper has been placed in the final ballot box, he shall instruct a clerk who does not have access to the list of ballot numbers issued that the clerk shall, on the next occasion on which the preliminary ballot box is opened, in the presence of the agents—
- (a) open the final ballot box and retrieve the cancelled ballot paper;
 - (b) show the ballot number on the cancelled ballot paper to such agents as are present;
 - (c) re-lock (if it has a lock) and re-seal the final ballot box;
 - (d) retrieve the security statement that relates to the cancelled ballot paper from the receptacle for security statements; and
 - (e) attach the cancelled ballot paper to the security statement and place both documents in the receptacle for cancelled ballot papers.
- (2) While retrieving a cancelled ballot paper in accordance with paragraph (1), the counting officer shall keep the ballot papers face downwards, so far as practicable, and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers.

Lists of rejected ballot papers

- 51.**—(1) In respect of any referendum, the counting officer shall keep two separate lists of rejected ballot papers.
- (2) In the first list, he shall record the ballot number of any ballot paper for which no valid security statement was received.
- (3) In the second list, he shall record the ballot number of any ballot paper which is entered on a valid security statement where that ballot paper is not received with the security statement.

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Checking of rejected ballot paper lists

52.—(1) Where the counting officer receives a valid security statement without the ballot paper to which it relates, or in the case of combined polls one or both of the ballot papers, he may, at any time prior to the close of the poll, check the list kept under rule 51(1) to see whether the ballot number of a ballot paper is the same as the ballot number on a security statement entered in that list.

(2) Where the counting officer receives a ballot paper without the security statement to which it relates, he may, at any time prior to the close of the poll, check the list kept under rule 51(2) to see whether the ballot number of that ballot paper is entered in that list.

(3) The counting officer shall conduct the checks referred to in paragraphs (1) and (2) at the end of each occasion on which covering envelopes are opened and as soon as practicable after the close of the poll.

(4) Where the ballot number in the list matches that number on a valid security statement or, as the case may be, the ballot paper, the counting officer shall retrieve that security statement or paper.

(5) The counting officer shall then take the appropriate steps as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of lists and contents of receptacles

53.—(1) As soon as practicable after the completion of the procedure under paragraph 52(3) and (4) after the close of the poll, the counting officer shall make up into separate packets—

- (a) the contents of the receptacle for rejected votes,
- (b) the contents of the receptacle for security statements,
- (c) the contents of the receptacle for rejected ballot paper envelopes,
- (d) the contents of the receptacle for cancelled ballot papers,
- (e) the list of spoilt ballot papers,
- (f) the list of lost ballot papers,
- (g) the packets of spoilt ballot papers,
- (h) the packets of returned lost documents,
- (i) the list of received ballots,
- (j) the list of ballot numbers issued, and
- (k) the list of cancelled ballot papers,

and shall seal up such packets.

(2) Where there are combined polls the packets under paragraph (1) shall be made up jointly for those referendums.

(3) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

(4) The counting officer shall take all reasonable steps to ensure that all copies of the list of ballot numbers issued, other than those packeted up under rule 18(1), whether electronic or on paper, are destroyed; and where the list of ballot numbers issued consists of a computerised record, the counting officer, after packeting the list in accordance with paragraph (1) shall arrange for any remaining computerised record of the list to be removed from the computer and from any device on which a copy of the list is stored, and to be destroyed in a manner that ensures the confidentiality of the list is preserved.

Notification of requirement of secrecy

54. The counting officer shall make such arrangements as he thinks fit to ensure that—
- (a) a copy in writing of the provisions of section 66 of the Representation of the People Act 1983⁽¹⁾ has been given to the following persons attending at an assistance and delivery point or contingency delivery point—
 - (i) the presiding officer;
 - (ii) the clerks appointed to attend at that delivery point;
 - (iii) the referendum agents;
 - (iv) the persons authorised by the Electoral Commission to attend as its representatives at that delivery point;
 - (b) every clerk providing assistance pursuant to rule 42 has been given a copy in writing of the provisions of section 66 of the Representation of the People Act 1983; and
 - (c) every person attending at the receipt of ballot papers or the counting of the votes (other than a constable on duty at the counting) has been given a copy in writing of the provisions of subsections (2), (5) and (9) of that section.

(1) 1983 c. 2. Section 66 was amended by Schedule 3 to the Representation of the People Act 1985 (c. 50). There were other amendments not relevant to this Order.