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## DRAFT STATUTORY INSTRUMENTS

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### 2001 No.

## Representation of the People (England and Wales) Regulations 2001

### PART V

#### ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

##### Interpretation of Part V

- 64.** For the purposes of this Part of these Regulations, unless the context otherwise requires—
- “absent voters list” means the list kept under paragraph 5 of Schedule 4 to the 2000 Act;
  - “agent” includes the election agent and a person appointed to attend in the election agent’s place;
  - “ballot paper envelope” and “covering envelope” mean the envelopes referred to in regulation 74 below;
  - “list of postal proxies” means the list kept under paragraph 7(8) of Schedule 4 to the 2000 Act;
  - “postal ballot paper” means a ballot paper issued to a postal voter;
  - “postal voter” means an elector or proxy who is entitled to vote by post;
  - “postal voters’ ballot box” means the ballot box referred to in regulation 81(1)(a);
  - “receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in regulation 81(5) below;
  - “spoilt postal ballot paper” means a ballot paper referred to in regulation 77(1) below;
  - “universal postal service provider” has the meaning given in the Postal Services Act 2000(1) to a “universal service provider”; and
  - “valid declaration of identity” means one falling within regulation 85(1) below.

##### *Issue of Postal Ballot Papers*

##### Combination of polls

- 65.** Where the polls at elections are taken together under—
- (a) subsection (1) or (2) of section 15 of the 1985 Act (combination of polls at parliamentary, European Parliamentary and local government elections), or
  - (b) subsection (3) or (3AB) of section 36 of the 1983 Act (combination of polls at local elections)(2),

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(1) 2000 c. 26.

(2) Section 36(3) was substituted by section 17 of the 1985 Act and section 36(3B) was inserted by Schedule 16 to the Local Government (Wales) Act 1994 (c. 19).

the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.

### **Form of declaration of identity**

**66.** The form of the declaration of identity for the purposes of rule 24 of the rules in Schedule 1 to the 1983 Act(3) shall be—

- (a) in Form G at a parliamentary election taken alone;
- (b) in Form H at a parliamentary election where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election;
- (c) in Form J at a parliamentary election where the poll is taken together with the poll at another election, but where the proceedings on the issue and receipt of postal ballot papers are not.

### **Persons entitled to be present at proceedings on issue of postal ballot papers**

**67.** No person may be present at the proceedings on the issue of postal ballot papers other than the returning officer and his clerks.

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

**68.** No person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the returning officer and his clerks,
- (b) a candidate,
- (c) an election agent or any person appointed by a candidate to attend in his election agent's place or, at an election of parish or community councillors, any person appointed by the candidate to attend at those proceedings, and
- (d) any agents appointed under regulation 69 below.

### **Agents of candidates who may attend proceedings on receipt of postal ballot papers**

**69.—**(1) Each candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number he may be authorised by the returning officer to appoint so, however, that the number authorised shall be the same in the case of each candidate.

(2) 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 before the time fixed for the opening of the postal voters' ballot box.

(3) Where postal ballot papers for more than one election are issued together under regulation 65 above, the returning officer to whom notice shall be given under paragraph (2) above and paragraphs (4) and (5) below is the returning officer who issues the postal ballot papers.

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

(5) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

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(3) Rule 24 was substituted by Schedule 6 to the 2000 Act.

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

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

(8) Where in this Part of these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their 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.

### **Notification of requirement of secrecy**

70. The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue of receipt or postal ballot papers has been given a copy in writing of the provisions of subsections (4) and (6) of section 66 of the Act 1983(4).

### **Time when postal ballot papers are to be issued**

71.—(1) In the case of a person shown in the record kept under—

- (a) paragraph 3(4), or
- (b) paragraph 7(6),

of Schedule 4 to the 2000 Act (electors and proxies entitled to vote by post for an indefinite or definite period), no postal ballot paper (and declaration of identity) shall be issued until after 5 p.m. on the eleventh day before the date of the poll (computed in accordance with regulation 56(6) above).

(2) In the case of any other person, the postal ballot paper (and declaration of identity) shall be issued by the returning officer as soon as practicable after the registration officer has granted the application to vote by post.

### **Procedure on issue of postal ballot paper**

72.—(1) Each postal ballot paper issued shall be stamped with the official mark.

(2) The number of the elector as stated in the register shall be marked on the counterfoil attached to the ballot paper.

(3) A mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued.

(4) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(5) Where postal ballot papers for more than one election are issued together under regulation 65 above—

- (a) one mark shall be placed in the absent voters list or the list of postal proxies under paragraph (3) above to denote that ballot papers have been issued in respect of all those elections; except that, where ballot papers are not so issued, a different mark shall be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued; and
- (b) the number of each ballot paper shall be marked on the declaration of identity under paragraph (4) above.

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(4) Section 66(6) was amended by Schedule 3 to the 1985 Act.

(6) Where the poll at one election is taken with the poll at another election (under the provisions referred to in regulation 65 above) but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the declaration of identity sent with that paper.

### **Refusal to issue postal ballot paper**

**73.** Where a returning officer is satisfied that two or more entries in the absent voters list, or the list of postal proxies or in each of those lists relate to the same elector, he shall not issue more than one ballot paper in respect of that elector at any one election.

### **Envelopes**

**74.—**(1) Paragraphs (2) and (3) below prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and declaration of identity (which are issued under rule 24 of the elections rules<sup>(5)</sup>).

(2) There shall be issued an envelope for the return of the postal ballot paper or, as the case may be, ballot papers and the declaration of identity (referred to as a “covering envelope”) which shall be marked with the letter “B”.

(3) There shall also be issued a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

- (a) the letter “A”;
- (b) the words “ballot paper envelope”, and
- (c) the number of the ballot paper or, as the case may be, ballot papers.

(4) Where polls are taken together (under the provisions referred to in regulation 65 above) but not the proceedings on the issue and receipt of postal ballot papers—

- (a) the envelope referred to in paragraph (2) above shall also be marked “Covering envelope for the [*insert colour of ballot paper*] coloured ballot paper”, and
- (b) on the envelope referred to in paragraph (3) above, after the words “Ballot paper envelope” there shall be added the words “for the [*insert colour of ballot paper*] coloured ballot paper”.

### **Sealing up of counterfoils and security of special lists**

**75.—**(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the counterfoils of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in paragraph (2) above, the returning officer shall take proper precautions for the security of the lists referred to in that paragraph.

### **Delivery of postal ballot papers**

**76.—**(1) For the purposes of delivering postal ballot papers, the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm, or

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(5) Rule 24 was substituted by paragraph 10(3) of Schedule 6 to the 2000 Act.

(c) clerks appointed under rule 26(1) of the elections rules.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where paragraph (1)(c) above applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

### **Spoilt postal ballot papers**

**77.**—(1) If a postal voter has inadvertently dealt with his postal ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) he may return (either by hand or by post) to the returning officer the spoilt ballot paper, the declaration of identity, the ballot paper envelope and the covering envelope.

(2) Where postal ballot papers for more than one election have been issued together under regulation 65 above, the postal voter shall, if he exercises the entitlement conferred by paragraph (1) above, return all of the ballot papers so issued, whether spoilt or not.

(3) On receipt of the documents referred to in paragraph (1) and, where applicable paragraph (2) above, the returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5 p.m. on the day before the day of the poll.

(4) Regulations 72 (except paragraph (3)), 74, 75 and, subject to paragraph (7) below, 76 above shall apply to the issue of a replacement postal ballot paper under paragraph (3) above.

(5) The spoilt postal ballot paper, and any other postal ballot paper issued with it, the declaration of identity and the ballot paper envelope shall be immediately cancelled.

(6) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(7) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with regulation 76 above.

(8) The returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper (or papers) issued under this regulation; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

### **Lost postal ballot papers**

**78.**—(1) Where a postal voter has not received his postal ballot paper by the fourth day before the day of the poll, he may apply (whether or not in person) to the returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the returning officer before 5 p.m. on the day before the day of the poll and the returning officer—

- (a) is satisfied as to the voter’s identity, and
- (b) has no reason to doubt that the postal voter did not receive the original postal ballot paper,

he shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(4) The returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper issued under this regulation; and
- (c) where the postal voter whose ballot paper is lost is a proxy, his name and address.

(5) Regulations 72 (except paragraph (3)), 74, 75 and, subject to paragraph (6) below, 76 above shall apply to the issue of a replacement postal ballot paper under paragraph (3) above.

(6) Where a postal ballot voter applies in person, the returning officer may hand a replacement ballot paper to him instead of delivering it in accordance with regulation 76 above.

### *Receipt of Postal Ballot Papers*

#### **Alternative means of returning postal ballot paper or declaration of identity**

**79.**—(1) For the purposes of rule 45(1B) of the rules in Schedule 1 to the 1983 Act<sup>(6)</sup> the manner in which a postal ballot paper or declaration of identity may be returned to a polling station is by hand.

(2) For these purposes, the manner in which such a paper or declaration may be returned to the returning officer is by post or by hand.

(3) The presiding officer of the polling station shall deliver, or cause to be delivered, any postal ballot paper or declaration of identity returned to that station to the returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets referred to in rule 43(1) of the elections rules.

#### **Notice of opening of postal ballot paper envelopes**

**80.**—(1) The returning officer shall give to each candidate not less than 48 hours' notice in writing of each occasion on which a postal voters' 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 agents a candidate may appoint under regulation 69(1) above to attend each opening.

#### **Postal ballot boxes and receptacles**

**81.**—(1) The returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters' ballot box”), and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters' ballot box” or “postal ballot box”, as the case may be, and with the name of the constituency or electoral area (or areas) for which the election (or elections) is held.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The returning officer shall then lock the ballot box and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

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(6) Rule 45(1B) was inserted by paragraph 10(4)(a) of Schedule 6 to the 2000 Act.

(5) The returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity;
- (c) the receptacle for ballot paper envelopes; and
- (d) the receptacle for rejected ballot paper envelopes.

(6) The returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this regulation.

### **Receipt of covering envelope**

**82.**—(1) The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

(2) Where an envelope, other than a covering envelope issued by the returning officer—

- (a) has been opened, and
- (b) contains a ballot paper envelope, declaration of identity or ballot paper,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

### **Opening of postal voters' ballot box**

**83.**—(1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

(2) So long as the returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 45 of the elections rules.

### **Opening of covering envelopes**

**84.**—(1) When a postal voters' ballot box is opened, the returning officer shall count and record the number of covering envelopes, and shall then open each covering envelope (including any envelope described in regulation 82(2) above) separately.

(2) The procedure in regulation 85 below applies where a covering envelope (including an envelope to which regulation 82(2) above applies) contains both—

- (a) a declaration of identity; and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the declaration of identity separately, the returning officer shall open the ballot paper envelope to ascertain whether the declaration of identity is inside.

(4) Where a covering envelope does not contain both—

- (a) a declaration of identity (whether separately or not), and
- (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers),

the returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

### **Procedure in relation to declarations of identity**

**85.**—(1) The returning officer shall satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address (referred to as a “valid declaration of identity”).

(2) Where the returning officer is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to paragraph (3) below, place it in the receptacle for rejected votes.

(3) Before placing the declaration in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.

(4) The returning officer shall then examine the number (or numbers) on the declaration of identity against the number (or numbers) on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope respectively in the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

(5) Where there is a valid declaration of identity but no ballot paper envelope, or where the envelope has been opened under regulation 84(3) above, he shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the declaration of identity;
- (b) in the receptacle for rejected votes, any other ballot paper, to which shall be attached the declaration of identity marked “provisionally rejected”; and
- (c) in the receptacle for declarations of identity, any declaration of identity not disposed of under sub-paragraph (b) above.

(6) Where the number (or numbers) on a valid declaration of identity is not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number where the declaration of identity has more than one), the returning officer shall open the envelope.

(7) Where an envelope has been opened under regulation 84(3) above or paragraph (6) above, the returning officer shall—

- (a) place in the postal ballot box any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity;
- (b) place in the receptacle for rejected votes any other ballot paper, to which shall be attached the declaration of identity marked “provisionally rejected”;
- (c) place in the receptacle for rejected votes any declaration of identity marked “provisionally rejected” in respect of a ballot paper envelope—
  - (i) which does not contain a ballot paper; or
  - (ii) which does not contain a sufficient number of ballot papers if more than one number appears on the declaration,

and shall indicate the missing ballot paper, where that is the case; and

- (d) place in the receptacle for declarations of identity, any such declaration not disposed of under sub-paragraph (b) or (c) above.

### **Opening of ballot paper envelopes**

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

(2) He shall place—



- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper).

### **Lists of rejected postal ballot papers**

**87.**—(1) In respect of any election, the returning officer shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, he shall record the ballot paper number of any postal ballot paper for which no valid declaration of identity was received with it.

(3) In the second list, he shall record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

### **Checking of lists kept under regulation 87**

**88.**—(1) Where the returning officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under regulation 87(2) above to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is entered in that list.

(2) Where the returning officer receives a postal ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under regulation 87(3) above to see whether the number of that ballot paper is entered in that list.

(3) The returning officer shall conduct the checks required by paragraphs (1) and (2) above as soon as practicable after the receipt of packets from every polling station in the constituency or, as the case may be, electoral area under rule 43(1) of the elections rules.

(4) Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the postal ballot paper, the returning officer shall retrieve that declaration or paper.

(5) The returning officer shall then take the appropriate steps under this Part of these Regulations as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

### **Sealing of receptacles**

**89.**—(1) As soon as practicable after the completion of the procedure under regulation 88(3) and (4) above, the returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes,
- (b) the receptacle of declarations of identity,
- (c) the receptacle of rejected ballot paper envelopes, and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

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

### **Abandoned poll**

**90.**—(1) Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Part of these Regulations; and
- (b) shall, notwithstanding regulations 84 to 86 above, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

(2) Paragraph (1) above shall not apply where postal ballot papers for more than one election have been issued together under regulation 65 above.

### **Forwarding of documents**

**91.**—(1) The returning officer shall forward, in the case of a parliamentary election to the Clerk of the Crown in Chancery and, in the case of a local government election, to the officer determined in accordance with paragraph (2) below, at the same time as he forwards the documents mentioned in rule 55 of the elections rules—

- (a) any packets referred to in regulations 75, 77(6) and 89 above, subject to regulation 90 above, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency or electoral area (or areas) for which the election (or elections) was held, and
- (b) at a parliamentary election, a completed statement in Form K of the number of postal ballot papers issued.

(2) In the case of a local government election, the documents to be forwarded under paragraph (1) above shall be forwarded to the proper officer of the local authority for which the election was held except that, in the case of a parish or community council election, the documents shall be forwarded to the proper office of the council of the district in England or county or county borough in Wales, in which the parish or community is situated.

(3) Where—

- (a) any covering envelopes are received by the returning officer after the close of the poll (apart from those delivered in accordance with the provisions of regulation 79(3) above);
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed, or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the returning officer shall put them unopened in a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in paragraph (1) above.

(4) Rules 56 and 57 of the elections rules shall apply to any packet or document forwarded under this regulation.

(5) A copy of the statement referred to in paragraph (1)(b) above shall be provided by the returning officer to the Secretary of State.