

SCHEDULE 5

THE NEIGHBOURHOOD PLANNING REFERENDUMS (COMBINATION OF POLLS) RULES

PART 6

Counting of Votes

Attendance at counting of votes

36.—(1) Where the counting officer at the referendum is the relevant returning or counting officer, the officer must—

- (a) make arrangements for—
 - (i) discharging the functions under rule 37(1) in the presence of the counting observers appointed for the purposes of the referendum and the election agents or observers appointed for the purpose of each relevant election as soon as practicable after the close of the poll, and
 - (ii) thereafter counting the votes at the referendum in the presence of the counting observers appointed for the purpose of the referendum; and
- (b) give to the counting observers appointed for the purposes of the referendum and the election agents or observers appointed for the purposes of each relevant election notice in writing of the time and place at which the counting officer will begin to discharge the functions under rule 37(1).

(2) Where the counting officer at the referendum is not the relevant returning or counting officer, the counting officer must—

- (a) make arrangements for counting the votes in the presence of the counting observers as soon as practicable after the delivery of ballot papers to the officer by the relevant returning or counting officer; and
 - (b) give to the counting observers notice in writing of the time at which the counting officer will begin to count the votes if by then the officer has received the ballot papers and of the place at which the count will take place.
- (3) No person other than—
- (a) the Chief Counting Officer, the counting officer and the counting officer's clerks;
 - (b) the counting observers; and
 - (c) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000,

may be present at the counting of the votes, unless permitted by the counting officer to attend.

(4) No person other than a person entitled to be present at the counting of the votes at the referendum or at a relevant election may be present at the proceedings under rule 37(1) unless permitted by the relevant returning or counting officer to attend.

- (5) A person not entitled to attend at—
- (a) the proceedings under rule 37(1); or
 - (b) the counting of the votes,

must not be permitted to do so by, respectively, the relevant returning or counting officer or counting officer unless the officer is satisfied that the efficient separation of the ballot papers or, as the case may be, the efficient counting of the votes will not be impeded.

(6) The—

- (a) relevant returning or counting officer, in respect of proceedings under rule 37(1); and
- (b) counting officer, in respect of the counting of the votes,

must give the counting observers all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the officer can give them consistent with the orderly conduct of the proceedings and the discharge of the officer's duties in connection with them.

(7) In particular, where the votes are counted by sorting the ballot papers according to the answer for which the vote is given and then counting the number of ballot papers for each answer, the counting observers are entitled to satisfy themselves that the ballot papers are correctly sorted.

The count

37.—(1) Where the counting officer at the referendum is the relevant returning or counting officer, the counting officer must—

- (a) in the presence of the counting observers appointed for the purposes of the poll at the referendum and the election agents and counting agents or observers appointed for the purposes of the poll at each relevant election, open each ballot box and record separately the number of ballot papers used in the referendum and each relevant election;
- (b) in the presence of the counting observers appointed for the purposes of the poll at the referendum and the election agents and counting agents or observers appointed for the purposes of the poll at each relevant election, verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record separately the number counted at the referendum and each relevant election;
- (d) separate the ballot papers relating to the referendum from the ballot papers relating to each relevant election;
- (e) make up into packets the ballot papers for the referendum and each relevant election and seal them up in separate containers endorsing on each a description of the areas to which the ballot paper relates;
- (f) deliver or cause to be delivered to the counting officer for the referendum or the returning officer or counting officer for the relevant election to which the ballot paper relates—
 - (i) those containers, together with a list of them and of the contents of each; and
 - (ii) the ballot paper accounts together with, in the case of each such account, a copy of the statement as to the result of their verification in respect of that referendum or election; and
- (g) at the same time deliver or cause to be delivered to that officer packets that so relate containing—
 - (i) the unused and spoilt ballot papers,
 - (ii) the tendered ballot papers, and
 - (iii) the certificates as to employment on duty on the day of the poll.

(2) Where separate ballot boxes are used, no vote for any candidate or answer is rendered invalid by the ballot paper being placed in the incorrect ballot box.

(3) After completion of the proceedings under paragraph (1), the counting officer must mix together all of the ballot papers used at the referendum and count the votes given on them.

(4) Where the counting officer at the referendum is not the relevant returning or counting officer, the counting officer must—

- (a) on receipt of containers from the relevant returning or counting officer, and no earlier than the time specified in the notice given under rule 36(2)(b), in the presence of the counting observers open each container;
- (b) where proceedings on the issue and receipt of postal ballot papers are not taken together with such proceedings at a relevant election, count such of the postal ballot papers as have been duly returned and record the number counted; and mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them,

and paragraph (11) does not apply to these proceedings.

(5) A postal ballot paper must not be taken to be duly returned unless—

- (a) it is returned in the manner set out in paragraph (6) and reaches the relevant returning or counting officer or any polling station in the appropriate area before the close of the poll;
- (b) the postal voting statement, duly signed, is also returned in the manner set out in paragraph (6) and reaches the relevant returning or counting officer or such a polling station before that time;
- (c) the postal voting statement also states the date of birth of a voter or proxy; and
- (d) in a case where steps for verifying the date of birth and signature of a voter or proxy have been prescribed by regulations made under the 1983 Act, the relevant returning or counting officer (having taken such steps) verifies that date of birth and that signature.

(6) The manner in which any postal ballot paper or postal voting statement may be returned—

- (a) to the relevant returning or counting officer, is by hand or by post;
- (b) to a polling station, is by hand.

(7) The appropriate area in respect of any voter or proxy is—

- (a) the area which is common to the parliamentary constituency, electoral area, local counting area, local authority area or voting area (as case may be) in which the polls at the referendum and any relevant election are being taken together; and
- (b) in respect of which polls the voter or proxy has been issued with a postal ballot paper.

(8) In paragraphs (5)(a) and (d) and (6)(a) for “relevant returning or counting officer” substitute “counting officer” where proceedings on the issue and receipt of postal ballot papers at the referendum are not taken together with such proceedings at one or more relevant elections.

(9) The counting officer must not count any tendered ballot paper.

(10) The—

- (a) relevant returning or counting officer, in respect of the proceedings under paragraph (1); and
- (b) counting officer, while counting the votes,

must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers or other unique identifying marks printed on the back of the papers.

(11) The relevant returning or counting officer must 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) and must draw up a statement as to the result of the verification, which any counting observer may copy.

(12) Where the referendum area comprises any part of the area of more than one relevant council, as soon as is practicable after the relevant returning or counting officer has drawn up the statement as to the result of the verification, the relevant returning or counting officer must inform the Chief Counting Officer of its content.

(13) The—

- (a) relevant returning or counting officer, in respect of the proceedings under paragraph (1), and
- (b) counting officer, in respect of the counting of votes,

must so far as practicable proceed continuously, allowing only time for refreshment, except that they may exclude the hours between 7 in the evening and 9 on the following morning.

(14) During the time so excluded the relevant returning or counting officer or counting officer (as the case may be) must—

- (a) place the ballot papers and other documents relating to the referendum under the officer's own seal and the seals of such of the counting observers as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

Re-count

38.—(1) The counting officer may have the votes re-counted or again re-counted.

(2) Paragraphs (3) to (7) apply where the referendum area comprises any part of the area of more than one relevant council.

(3) As soon as practicable after the conclusion of the count (which includes any re-count whether or not directed under this rule), the counting officer must draw up a provisional statement showing—

- (a) the number of ballot papers counted by the counting officer;
- (b) the number of votes cast in favour of each answer to the question asked in the referendum.

(4) As soon as possible after completion of the provisional statement, the counting officer must inform the Chief Counting Officer of its contents.

(5) Once the Chief Counting Officer has received the report of any counting officer on the contents of that counting officer's provisional statement prepared under paragraph (3) and under rule 39(5), the Chief Counting Officer may direct the counting officer to re-count (or further re-count) the votes.

(6) A re-count directed by the Chief Counting Officer under paragraph (5) may be of the votes in the whole referendum area, or in the areas of such of the relevant councils falling within the referendum area as the Chief Counting Officer considers reasonable.

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

Rejected ballot papers

39.—(1) Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which votes are given for more than one answer; or
- (c) on which anything is written or marked by which the voter or proxy can be identified except the printed number and other unique identifying mark on the back; or
- (d) which is unmarked or void for uncertainty,

is, subject to paragraph (2), void and must not be counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place; or
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

is not for such reason deemed to be void if an intention that the vote is for one or the other of the answers clearly appears, and the way the paper is marked does not itself identify the voter or proxy and it is not shown that the voter or proxy can be identified by it.

(3) The counting officer must endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and must add to the endorsement the words “rejection objected to” if any objection is made by a counting observer to the counting officer’s decision.

(4) Subject to paragraph (5), the counting officer must draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one answer;
- (c) writing or mark by which the voter or proxy could be identified;
- (d) unmarked or void for uncertainty.

(5) Where the referendum area comprises any part of the area of more than one relevant council, the statement referred to in paragraph (4) above is to be a provisional statement and as soon as practicable after the completion of that statement, the counting officer must inform the Chief Counting Officer of its contents.

Decisions on ballot papers

40. The decision of the counting officer on any question arising in respect of a ballot paper is final.

Equality of votes

41. Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between the answers, the result is that there is no majority in favour of the making of the plan or order.