

SCHEDULES

SCHEDULE 3

Rules for the conduct of PCC elections where poll not taken together with poll at another election

PART 4

Further provision: three or more candidates

Counting of second preference votes

60.—(1) As soon as the police area returning officer has determined that paragraph 4(1) of Schedule 9 to the 2011 Act applies, the police area returning officer must direct every local returning officer to count the second preference votes for the candidates who are not eliminated from the contest.

- (2) A local returning officer who is given a direction under paragraph (1) must—
- (a) notify the counting agents for candidates not eliminated from the contest of the time and place at which the count of second preference votes will take place,
 - (b) count the number of second preference votes given in the voting area for each of the candidates remaining in the contest⁽¹⁾ by votes which did not give a first preference vote to any of those candidates,
 - (c) draw up a statement of the number of second preference votes given to each remaining candidate,
 - (d) as soon as practicable after the statement is drawn up under sub-paragraph (c), inform the police area returning officer of its contents, and
 - (e) as soon as practicable after being authorised to do so by the police area returning officer—
 - (i) inform such of the candidates and their election agents as are then present of the contents of the statement prepared in accordance with sub-paragraph (c) and the statement prepared in accordance with rule 53(5) (as applied by paragraph (4) of this rule), and
 - (ii) give public notice of the contents of those statements.
- (3) A ballot paper—
- (a) which is not otherwise void, and
 - (b) on which not more than one second preference vote is marked,

is valid as respects that second preference vote and must be counted accordingly if (and only if) a valid first preference vote has been marked.

(4) The following provisions have effect in relation to the counting of the second preference votes as they have effect in relation to the counting of votes under rule 52—

- (a) rule 51(3) to (7),

(1) Paragraph 4(2) to (4) of Schedule 9 to the 2011 Act contain provision about which candidates remain in the contest.

- (b) rule 52(4) to (6),
 - (c) rule 53(1), (2), (4) and (5),
 - (d) rule 54,
 - (e) rule 55, and
 - (f) rule 56.
- (5) In their application by virtue of paragraph (4), those provisions have effect as if—
- (a) references to candidates were to candidates not eliminated from the contest,
 - (b) references to election agents or counting agents were to election agents or counting agents appointed by such candidates, and
 - (c) references to first preference votes were to second preference votes.
- (6) A local returning officer may not be required to re-examine any decision taken under rule 56.

The second calculation and resolution of equality

61.—(1) Once the police area returning officer has received from each local returning officer the statement required by rule 60(2)(c), the police area returning officer must comply with paragraph 4(5) and (6) of Schedule 9 to the 2011 Act.

(2) As soon as the police area returning officer has ascertained the result of the second calculation, the officer must provide such of the election agents for those candidates who remain in the contest as are then present with a copy of the relevant figures and must give them a reasonable opportunity to satisfy themselves as to the accuracy of the calculation.

(3) A person informed of the relevant figures under paragraph (2) may require the police area 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.

- (4) In paragraphs (2) and (3), “the relevant figures” means—
- (a) the number of second preference votes given in the police area for each of the candidates remaining in the contest, and
 - (b) the calculation undertaken by the police area returning officer for the purpose of ascertaining the total number of first and second preference votes given to each of those candidates.

(5) If, after the second calculation, the total number of votes given for two or more candidates is equal, the person to be returned the office of police and crime commissioner for the police area is the person whom the police area returning officer decides, in accordance with paragraph 4(8) of Schedule 9 to the 2011 Act, is to be returned to that office.

(6) Rule 58(2) and (3) has effect in relation to the calculation to be made under this rule as it has effect in relation to the calculation made under rule 59 but as if the reference to candidates was to candidates not eliminated from the contest and the reference to election agents or counting agents was to election agents or counting agents appointed by such candidates.