

## SCHEDULE 2

### ABSENT VOTING

#### PART III

#### ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

##### **Interpretation**

1. For the purpose of this Part, unless the context otherwise requires—

“agent” includes the election agent and a person appointed to attend in the election agent's place;

“election rules” means the local elections rules in Schedule 5 to the Act of 1962, as substituted by Schedule 1;

“issue” includes the original and any subsequent issue;

“postal ballot paper” means a ballot paper issued to a postal voter;

“postal voter” means a person entitled to vote by post at an election as an absent voter or as a proxy;

“returning officer” means the Chief Electoral Officer provided that, in respect of any function that Officer has delegated to a deputy returning officer (within the meaning of Article 9(2) of the Electoral Law (Northern Ireland) Order 1972), it means the deputy returning officer acting under the supervision of the Chief Electoral Officer.

##### **Form of ballot paper**

2. Except as provided by rule 17(3) of the elections rules with respect to the official mark, the ballot papers to be sent to postal voters shall be in the same form as, and indistinguishable from, those delivered to other voters.

##### **Persons entitled to be present at issue and receipt of postal ballot papers**

- 3.—(1) No person 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,

(d) any agents appointed under sub-paragraph (2),

may be present at the proceedings on the issue or receipt of postal ballot papers.

(2) Where postal ballot papers are to be issued, or the envelopes contained in the postal voters' ballot boxes are to be opened, simultaneously or in two or more batches, each candidate may appoint one or more agents up to the number he may be authorised by the returning officer to appoint not exceeding the number of such batches so, however, that the number authorised shall be the same in the case of each candidate.

(3) Notice 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 issue of the postal ballot papers or the opening of the postal voters' ballot boxes, as the case may be.

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(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.

(6) In this Part of this Schedule 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 sub-paragraph (2), 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 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.

#### **Declaration of secrecy**

4.—(1) Every person attending the proceedings on the issue or receipt of postal ballot papers shall make a declaration of secrecy in the form in sub-paragraph (4) before the issue of postal ballot papers:

Provided that if any person attends only the proceedings on the receipt of postal ballot papers, he need not make the declaration before the issue but shall make it before he is permitted to attend the proceedings on the receipt of postal ballot papers.

(2) The returning officer shall make the declaration in the presence of a Justice of the Peace, and any other person shall make the declaration in the presence of a Justice of the Peace or of the returning officer or of the clerk of a district council.

(3) Sub-paragraph (4) of paragraph 27 of Schedule 9 to, and section 111 of, the Act of 1962 shall be read to the declarant by the person taking the declaration or shall be read by the declarant in the presence of that person.

(4) The declaration shall be as follows:—

“I solemnly promise and declare that I will not do anything forbidden by sub-paragraph (4) of paragraph 27 of Schedule 9 to the Electoral Law Act (Northern Ireland) 1962 which has been read to [by] me.”.

#### **Notice of issue of postal ballot papers**

5.—(1) The returning officer shall give each candidate not less than two days' notice in writing of the time and place at which he will issue postal ballot papers and of the number of agents he may appoint under paragraph 3(2) to attend that issue.

(2) Where any subsequent issue of ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents he may appoint under paragraph 3(2) to attend such issue.

#### **Marking of postal ballot paper**

6.—(1) Each postal ballot paper issued shall be stamped with the official mark which shall perforate or emboss the ballot paper and the name and number in the register of electors shall be called out, and such number shall be marked on the counterfoil, and a mark shall be placed in the list of postal voters 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.

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

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

7. Where the returning officer is satisfied that two or more entries in the list of postal voters relate to the same elector or that a postal proxy has been appointed for a person entered in the list of proxies, he shall not issue more than one ballot paper in respect of the same elector.

#### **Ballot paper envelope**

8. The returning officer shall, in addition to the ballot paper, declaration of identity and envelope for their return (hereinafter referred to as a “covering envelope”) which he is required by rule 21 of the elections rules to send to a postal voter, send a smaller envelope marked “ballot paper envelope” bearing the number of the ballot paper.

#### **Delivery of postal ballot papers to post office**

9. Envelopes addressed to postal voters shall be counted and forthwith delivered by the returning officer to the nearest head post office, or such other office as may be arranged with the head postmaster, and the postmaster shall stamp with the post office date stamp a form of receipt to be presented by the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

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

10.—(1) The returning officer shall, at the proceedings on the original issue of postal ballot papers, provide a ballot box or ballot boxes for the reception of the covering envelopes when returned by the postal voters.

(2) Every such ballot box shall be shown open and empty to the agents present and shall then be locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals in such a manner as to prevent its being opened without breaking the seal.

(3) Every such ballot box shall be marked "postal voters' ballot box" and with the name of the district electoral area for which the election is held.

(4) The returning officer shall make provision for the safe custody of every such ballot box.

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

11.—(1) The returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents, shall make up in separate packets—

- (a) the marked copies of the list of postal voters, and
- (b) the counterfoils of those ballot papers which were issued,

and shall seal such packets.

(2) The sealed packet containing the marked copies of the list of postal voters may be opened by the returning officer for the purposes of a subsequent issue, and on completion of that issue the copies shall be again made up and sealed in accordance with sub-paragraph (1).

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### **Spoilt postal ballot paper**

12.—(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 (in this Part referred to as “a spoilt postal ballot paper”) he may return (either by hand or by post) to the returning officer the spoilt postal ballot paper, the declaration of identity, the ballot paper envelope and the covering envelope.

(2) The returning officer, on receipt of the said documents, shall, unless the documents are received too late for another postal ballot paper to be returned before the close of the poll, issue another postal ballot paper and the foregoing paragraphs of this Part, but not paragraphs (b), (c) or (d) of sub-paragraph (1) or sub-paragraphs (2) to (8) of paragraph 3 or paragraph 5, shall apply accordingly.

(3) The spoilt postal ballot paper, the declaration of identity and the ballot paper envelope shall be immediately cancelled.

(4) The returning officer, as soon as practicable after cancelling the said documents, shall make up the said documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as aforesaid, the sealed packet shall be opened and the additional cancelled documents included therein and the packet shall thereupon be again made up and sealed.

### **Receipt of covering envelope**

13. The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope before the close of the poll, place it unopened in a postal voters' ballot box locked and sealed in accordance with paragraph 10.

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

14.—(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 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 returning officer shall give each candidate at least forty-eight hours' notice in writing of the time and place of his opening of each postal voters' ballot box and the envelopes contained therein and of the number of agents the candidates may appoint under paragraph 3(2) to be present at each opening.

### **Opening of covering envelopes**

15.—(1) Where a postal voters' ballot box has been opened, the returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where a covering envelope does not contain both a declaration of identity and a ballot paper envelope or, there being no ballot paper envelope, a ballot paper, or contains more than one ballot paper (whether in an envelope or not), he shall mark the covering envelope “rejected”, attach thereto the contents (if any) of the covering envelope and place it in a separate receptacle (hereinafter referred to as “the receptacle for votes rejected”); and if the covering envelope does not contain the declaration separately, the returning officer shall open the ballot paper envelope to ascertain if the declaration is inside that envelope.

(3) On opening a covering envelope, other than one to which sub-paragraph (2) applies, he shall first satisfy himself that the declaration of identity has been duly signed and authenticated and, if he is not so satisfied, he shall mark the declaration “rejected”, attach thereto the ballot paper envelope or, if there is no such envelope, the ballot paper, and place it in the receptacle for votes rejected:

Provided that before so doing he shall show the declaration to the agents and, if any objection is made by any agent to his decision, he shall add the words “rejection objected to”.

(4) Where the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper envelope, he shall place the declaration in a separate receptacle (hereinafter referred to as “the receptacle for declarations of identity”) and the ballot envelope in another separate receptacle (hereinafter referred to as “the receptacle for ballot paper envelopes”).

(5) Where there is no ballot paper envelope or the ballot paper envelope has been opened under sub-paragraph (2), he shall—

- (a) where the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper, place the declaration in the receptacle for declarations of identity and the ballot paper in a ballot box previously shown open and empty to the agents present and locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal which shall be subsequently treated as a ballot box for the purpose of rule 45 of the elections rules;
- (b) where the number on the said declaration does not agree with the number on the ballot paper, mark the declaration “rejected”, attach thereto the ballot paper and place it in the receptacle for votes rejected.

(6) Where the number on the declaration of identity duly signed and authenticated does not agree with the number on the ballot paper envelope or that envelope has no number on it, he shall open the envelope and shall—

- (a) where the number on the declaration agrees with the number on the ballot paper, place the declaration in the receptacle for declarations of identity and the ballot paper in the ballot box referred to in sub-paragraph (5);
- (b) where the number on the declaration does not agree with the number on the ballot paper or there is no ballot paper, mark the declaration “rejected”, attach thereto the ballot paper (if any) and place it in the receptacle for votes rejected.

(7) Except for the purposes of ascertaining under sub-paragraph (2) whether a ballot paper envelope contains a declaration of identity or, where there is more than one ballot paper envelope, a ballot paper or under sub-paragraph (6) whether the number on the declaration agrees with the number on the ballot paper, the returning officer shall not open the ballot paper envelopes before they are opened under paragraph 17.

### **Sealing up of rejected votes and declarations of identity**

16. On the conclusion of the proceedings under paragraph 15 the returning officer shall put the contents of the receptacle for votes rejected and the contents of the receptacle for declarations of identity into two separate packets and shall seal up such packets.

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

17.—(1) After sealing up the packets referred to in paragraph 16 the returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) Where a ballot paper envelope does not contain a ballot paper, he shall mark the envelope “rejected”.

(3) Where the number on the ballot paper envelope agrees with the number on the ballot paper contained therein, he shall place the ballot paper in the ballot box referred to in paragraph 15(5).

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(4) Where the number on the ballot paper envelope does not agree with the number on the ballot paper contained therein, he shall mark the ballot paper “rejected” and attach the ballot paper envelope thereto.

(5) He shall put into a separate packet the envelopes and the ballot papers marked “rejected” under the provisions of this paragraph and shall seal up such packet.

### **Abandoned poll**

**18.** Where a poll is countermanded or abandoned 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 their contents in accordance with the provisions of this Part, and
- (b) shall, notwithstanding paragraphs 16 or 17, treat all unopened covering envelopes and the contents of those which have been opened as if they were counted ballot papers.

### **Disposal of documents**

**19.—(1)** The returning officer shall forward to the proper officer of the relevant council any packets referred to in paragraphs 11, 12, 16 or 17.

In this sub-paragraph—

“proper officer” means the officer who is charged with the duty of looking after the documents to which rule 58 of the elections rules applies; and

“relevant council” means the council to which the election in question takes place.

(2) Where any covering envelopes are received by the returning officer after the close of the poll or any envelopes addressed to postal voters are returned as undelivered too late to be readdressed, or any spoilt ballot papers are returned too late to enable other postal ballot papers to be issued, he shall put them unopened into a separate packet, seal up such packet and deal with it in the manner described in sub-paragraph (1).

(3) Any packets dealt with under sub-paragraphs (1) or (2) shall be deemed to be documents to which rules 58 to 60 of the elections rules apply.