

SCHEDULE 2

ABSENT VOTERS

PART II

Issue and receipt of postal ballot papers

Interpretation of Part II

- 15.** For the purposes of this Part of this Schedule, unless the context otherwise requires—
- “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 paragraph 23 below;
 - “list of postal proxies” means the list kept under regulation 11(8);
 - “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 paragraph 28(1)(a) below;
 - “receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in paragraph 28(5) below;
 - “spoilt postal ballot paper” means a ballot paper referred to in paragraph 26(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 paragraph 32(1) below.

Issue of postal ballot papers

Form of declaration of identity

16. The form of the declaration of identity for the purposes of rule 24 of the European Parliamentary elections rules shall be in Form G in the Appendix.

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

17. No person may be present at the proceedings on the issue or receipt of postal ballot papers at a European Parliamentary election other than—

- (a) the returning officer,
- (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 paragraph 18 below, and
- (e) representatives of the Electoral Commission.

(1) 2000 c. 26.

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Agents of candidates who may attend proceedings on issue or receipt of postal ballot papers

18.—(1) Each candidate may appoint one or more agents to attend the proceedings on the issue or 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 issue of the postal ballot papers or the opening of the postal voters' ballot box, as the case may be.

(3) 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.

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

(5) 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 subparagraph (1) above, who are within the number authorised by the returning officer.

(6) 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.

(7) Where in this Part of this Schedule 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

19. The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of regulation 30(5) and (7).

Notice of issue of postal ballot papers

20.—(1) The returning officer shall give each candidate not less than 48 hours' 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 18 above to attend that issue.

(2) Where any subsequent issue of postal 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 the candidate may appoint under paragraph 18 above to attend such issue.

Procedure on issue of postal ballot paper

21.—(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.

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(5) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 23 below are to be sent is—

- (a) in the case of an elector, the address shown in the absent voter’s list;
- (b) in the case of a proxy, the address shown in the list of postal proxies.

Refusal to issue postal ballot paper

22. Where the 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.

Envelopes

23.—(1) Sub-paragraphs (2) and (3) below specify 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 European Parliamentary elections rules).

(2) There shall be issued an envelope for the return of the postal ballot paper 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.

Sealing up of counterfoils and security of special lists

24.—(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 sub-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

25.—(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
- (c) clerks appointed under rule 26(1) of the European Parliamentary 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 and on the covering envelopes (except where sub-paragraph (1)(c) above applies).

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Spoilt postal ballot papers

26.—(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 and the declaration of identity.

(2) On receipt of the documents referred to in sub-paragraph (1) above, the returning officer shall issue another postal ballot paper except where those documents are received after 5 p.m. on the day before the day of the poll.

(3) Paragraphs 21 (except sub-paragraph (3)), 23, 24 and, subject to sub-paragraph (6) below, 25 above shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3) above.

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

(5) 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.

(6) 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 paragraph 25 above.

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

- (a) the name and address 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 spoilt is a proxy, his name and address.

Receipt of postal ballot papers

Notice of opening of postal ballot paper envelopes

27.—(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 paragraph 18(1) above to attend each opening.

Postal ballot boxes and receptacles

28.—(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.

(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.

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

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity; and
- (c) the receptacle for 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

29. 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.

Opening of postal voters' ballot box

30.—(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.

Opening of covering envelopes

31.—(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 separately.

- (2) The procedure in paragraph 33 below applies where a covering envelope contains both—
- (a) a declaration of identity; and
 - (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper.

(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,

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

Procedure in relation to declarations of identity on receipt of covering envelope

32.—(1) A declaration of identity is a valid declaration of identity for the purposes of this Part of this Schedule if—

- (a) it is duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address, and
- (b) in the case of an elector, the requirements of rule 46(2)(b) and (3) of the European Parliamentary elections rules are satisfied.

(2) The returning officer must satisfy himself that the declaration of identity is a valid declaration of identity.

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(3) 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 and, subject to sub-paragraph (4) below, place it in the receptacle for rejected votes.

(4) 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”.

(5) The returning officer shall then examine the number on the declaration of identity against the number 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.

(6) Where—

- (a) the number on a valid declaration of identity is not the same as the number on the ballot paper envelope, or
- (b) that envelope has no number on it,

the returning officer shall open the envelope.

(7) Sub-paragraph (8) below applies where—

- (a) there is a valid declaration of identity but no ballot paper envelope, or
- (b) the ballot paper envelope has been opened under paragraph 31(3) or sub-paragraph (6) above.

(8) In the circumstances described in sub-paragraph (7) above, the returning officer shall place—

- (a) in the postal ballot paper box, any ballot paper the number on which is the same as the number on the valid declaration of identity;
- (b) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked “rejected”;
- (c) in the receptacle for rejected votes, any valid declaration of identity marked “rejected” where there is no ballot paper;
- (d) in the receptacle for declarations of identity, any valid declaration not disposed of under paragraph (b) or (c) above.

Opening of ballot paper envelopes

33.—(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 on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected votes any ballot paper envelope which shall be marked “rejected” because it does not contain a ballot paper.

Sealing of receptacles

34. As soon as practicable after the completion of the procedure under paragraph 33 above, the returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes, and

(b) the receptacle of declarations of identity,
and shall seal up such packets.

Abandoned poll

35. 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 this Schedule; and
- (b) shall notwithstanding paragraphs 31 to 33 above, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

Retention of documents

36.—(1) The returning officer shall retain at the same time as he retains the documents mentioned in rule 63 of the European Parliamentary elections rules—

- (a) any packets referred to in paragraphs 24, 26(5) and 34 above, subject to paragraph 35 above, endorsing on each packet a description of its contents and the date of the election to which it relates, and
- (b) a completed statement in Form H in the Appendix of the number of postal ballot papers issued.

(2) Where—

- (a) any covering envelopes are received by the returning officer after the close of the poll;
- (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 retain it at a subsequent date in the manner described in sub-paragraph (1) above.

(3) Rules 64 and 65 of the European Parliamentary elections rules shall apply to any packet or document retained under this regulation.

(4) A copy of the statement referred to in sub-paragraph (1)(b) above shall be provided by the returning officer to the Electoral Commission.