

SCHEDULE 3

Rules for Conduct of an Election of Councillors of a Principal Area where the Poll is taken together with the Poll at a Relevant Election or Referendum

PART 5

Disposal of Documents

Sealing up of ballot papers

51.—(1) On the completion of the counting at a contested election the returning officer must seal up in separate packets the counted and rejected ballot papers, including ballot papers rejected in part.

(2) The returning officer must not open the sealed packets of—

- (a) tendered ballot papers, or
- (b) certificates as to employment on duty on the day of the poll.

(3) Where the returning officer discharges the functions referred to in regulation 5 of the Combination of Polls Regulations, he must also not open the sealed packets of—

- (a) the completed corresponding number lists, or
- (b) the marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and lists of proxies.

Delivery of documents to relevant registration officer

52.—(1) The returning officer must then forward to the relevant registration officer the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, the lists maintained under rule 41, and the declarations made by the companions of voters with disabilities,
- (d) the packets of the completed corresponding number lists,
- (e) the packets of certificates as to employment on duty on the day of the poll, and
- (f) the packets containing marked copies of registers (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the postal voters list, of the lists of proxies and of the proxy postal voters list.

(2) At an election where the returning officer does not discharge the functions referred to in regulation 5 of the Combination of Polls Regulations, paragraph (1) shall have effect as if subparagraphs (c), (d) and (e) were omitted.

(3) In this rule and in rules 53, 54 and 55 references to the relevant registration officer are to—

- (a) the registration officer of the local authority in whose area the principal area election is held;
- (b) if the electoral area of the relevant election or referendum comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered;

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(c) if the returning officer discharges the functions referred to in regulation 5 of the Combination of Polls Regulations, the registration officer of the local authority in whose area the principal area election is held,
and for these purposes “local authority” does not include the Greater London Authority.

Orders for production of documents

53.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers, including ballot papers rejected in part, in the custody of the relevant registration officer, or
- (b) for the opening of a sealed packet of the completed corresponding number lists or certificates as to employment on duty on the day of the poll or for the inspection of any counted ballot papers in his custody,

may be made by a county court, if the court is satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition.

(2) An order for the opening of a sealed packet of the completed corresponding number lists or certificates as to employment on duty on the day of the poll or for the inspection of any counted ballot papers in the custody of the relevant registration officer may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening,

as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of the completed corresponding number lists or certificates as to employment on duty on the day of the poll or for the inspection of counted ballot papers, care must be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the High Court from any order of a county court under this rule.

(5) Any power given under this rule to a county court may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the relevant registration officer of any document in his possession relating to any specified election—

- (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(7) The production from proper custody of—

- (a) a ballot paper purporting to have been used at any election, and
- (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors or on a notice issued under section 13B(3B) or (3D) of the 1983 Act at the time of the election contained the same number as the number written as mentioned in subparagraph (b) of this paragraph.

(8) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the relevant registration officer or open any sealed packets of the completed corresponding number lists or of certificates as to employment on duty on the day of the poll.

Retention of documents

54. The relevant registration officer must retain for one year all documents relating to an election forwarded to him in pursuance of these Rules by a returning officer, and then, unless otherwise directed by an order of a county court, the Crown Court, a magistrates' court or an election court, must cause them to be destroyed.