

SCHEDULE 5

Assembly election rules

PART 5

Disposal of documents

Sealing up of ballot papers

66.—(1) On the completion of the counting at a contested Assembly election the constituency returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) Where the polls at a constituency election and a regional election are taken together packets sealed up under paragraph (1) shall not contain ballot papers relating to different elections.

(3) The constituency returning officer shall not open the sealed packets of—

- (a) tendered ballot papers;
- (b) the completed corresponding number lists;
- (c) certificates as to employment on duty on the day of the poll; or
- (d) 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

67.—(1) Where a constituency returning officer has conducted a count where the poll at a constituency election and a regional election have been taken together, he shall then forward to the relevant registration officer the following documents—

- (a) the packets of ballot papers in his possession relating to a constituency election;
- (b) the packets of ballot papers in his possession relating to a regional election;
- (c) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to a constituency election;
- (d) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to a regional election;
- (e) 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 51 and the declarations made by the companions of voters with disabilities relating to the election, or as the case may be, elections;
- (f) the packets of the completed corresponding number lists;
- (g) the packets of the certificates as to employment on duty on the day of the poll relating to the election, or as the case may be, elections; and
- (h) 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 lists of proxies and of the proxy postal voters list relating to the election, or as the case may be elections,

endorsing on each packet—

- (i) a description of its contents;
- (ii) the date of the election or elections to which they relate;

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- (iii) where the packet relates to a constituency election, the name of the Assembly constituency for which the election was held;
- (iv) where the packet relates to a regional election, the name of the Assembly electoral region for which the election was held and the name of the Assembly constituency in which the electoral region votes were given; and
- (v) where the packet relates to both a constituency and a regional election, the name of the Assembly constituency and electoral region for which the elections were held.

(2) Where a constituency returning officer has conducted a count at an Assembly election and paragraph (1) does not apply, he shall 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 51 and the declarations made by the companions of voters with disabilities;
- (d) the packets of the completed corresponding number lists;
- (e) the packets of the 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 lists of proxies and of the proxy postal voters list,

endorsing on each packet—

- (i) a description of its contents;
- (ii) the date of the election to which they relate;
- (iii) the name of the Assembly constituency or electoral region for which the election was held; and
- (iv) in the case of a regional election, the name of the Assembly constituency in which the electoral region votes were given.

Order for production of documents

68.—(1) An order—

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

may be made if 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 Assembly election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet referred to in paragraph (1)(b) or for the inspection of any counted ballot papers in the relevant registration officer's custody may be made by an election court.

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

- (a) persons;
- (b) time;
- (c) place and mode of inspection; or

(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 sealed packet referred to in paragraph (1)(b) or for the inspection of counted ballot papers, care shall 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 paragraph.

(5) Any power given under this rule to the High Court, or 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 sub-paragraph (b).

(8) Save as provided by this rule, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the relevant registration officer or to open any sealed packets referred to in paragraph (1)(b).

Retention and public inspection of documents

69.—(1) The relevant registration officer shall retain for a year all documents⁽¹⁾ relating to an election forwarded to him in pursuance of these rules by a constituency returning officer and then, unless otherwise directed by order of the High Court, the Crown Court or a magistrates' court, shall cause them to be destroyed.

(2) Notwithstanding the revocation of the National Assembly for Wales (Representation of the People) Order 2003, rule 64 of Schedule 5 to that Order shall, in relation to documents forwarded to the Assembly under that Schedule and to which that paragraph applied, continue to have effect as if incorporated in this Order.

(1) See sections 42 to 44 of the Electoral Administration Act 2006 (c. 22) as to access to and inspection of such documents. These sections commence on 1st January 2007.