

## SCHEDULE 3

### THE NEIGHBOURHOOD PLANNING REFERENDUMS RULES

#### Modifications etc. (not altering text)

- C1 Sch. 3 modified (temp.) (31.10.2023) by [The Representation of the People \(Postal and Proxy Voting etc.\) \(Amendment\) Regulations 2023 \(S.I. 2023/1147\)](#), reg. 1(2), Sch. 2 para. 30(2)(3) (with Sch. 2 para. 27)
- C1 Sch. 3 modified (temp.) (31.10.2023) by [The Representation of the People \(Postal and Proxy Voting etc.\) \(Amendment\) Regulations 2023 \(S.I. 2023/1147\)](#), reg. 1(2), Sch. 2 para. 30(2)(3) (with Sch. 2 para. 27)
- C1 Sch. 3 modified (temp.) (31.10.2023) by [The Representation of the People \(Postal and Proxy Voting etc.\) \(Amendment\) Regulations 2023 \(S.I. 2023/1147\)](#), reg. 1(2), Sch. 2 para. 30(4)(5) (with Sch. 2 para. 27)
- C1 Sch. 3 modified (temp.) (31.10.2023) by [The Representation of the People \(Postal and Proxy Voting etc.\) \(Amendment\) Regulations 2023 \(S.I. 2023/1147\)](#), reg. 1(2), Sch. 2 para. 30(4)(5) (with Sch. 2 para. 27)

## PART 6

### Counting of Votes

#### Attendance at counting of votes

**36.**—(1) The counting officer must make arrangements for counting the votes in the presence of the counting observers as soon as practicable after the close of the poll, and must give to the counting observers notice in writing of the time and place at which the counting officer will begin to count the votes.

(2) No person other than—

- (a) the Chief Counting Officer, the counting officer and the counting officer's clerks;
- (b) the counting observers; and
- (c) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000,

may be present at the counting of the votes, unless permitted by the counting officer to attend.

(3) A person not entitled to attend at the counting of the votes is not permitted to do so by the counting officer unless the counting officer is satisfied that the efficient counting of the votes will not be impeded.

(4) The counting officer must give the counting observers all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the officer can give them consistent with the orderly conduct of the proceedings and the discharge of the officer's duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the answer for which the vote is given and then counting the number of ballot papers for each answer, the counting observers are entitled to satisfy themselves that the ballot papers are correctly sorted.

#### The count

**37.**—(1) The counting officer must—

- (a) in the presence of the counting observers open each ballot box and count and record the number of ballot papers in it;
- (b) in the presence of the counting observers verify each ballot paper account; and

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- (c) count such of the postal ballot papers as have been duly returned and record the number counted.
- (2) The counting officer must not count the votes given on any ballot papers until—
  - (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box; and
  - (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.
- (3) A postal ballot paper must not be taken to be duly returned unless—
  - (a) it is returned in the manner set out in paragraph (4) and reaches the counting officer or any polling station used at the referendum in question before the close of the poll;
  - (b) the postal voting statement, duly signed, is also returned in the manner set out in paragraph (4) and reaches the counting officer or such a polling station before that time;
  - (c) the postal voting statement also states the date of birth of the voter or proxy; <sup>F1</sup>...
  - (d) in a case where steps for verifying the date of birth and signature of a voter or proxy have been prescribed by regulations made under the 1983 Act, the counting officer (having taken such steps) verifies that date of birth and that signature.
- [<sup>F2</sup>(e) the postal ballot paper is not one that falls to be rejected in accordance with regulation 79B, 79D, 82B or 82D of the Representation of the People (England and Wales) Regulations 2001.]

[<sup>F3</sup>(3A) A postal ballot paper or postal voting statement that reaches the counting officer or a polling station on or after the close of the poll is treated for the purposes of paragraph (3) as reaching that officer or polling station before the close of the poll if it is delivered by a person who, at the close of the poll, is in the polling station, or in a queue outside the polling station, for the purpose of returning it.]

- (4) The manner in which any postal ballot paper or postal voting statement may be returned—
  - (a) to the counting officer, is by hand or by post;
  - (b) to a polling station, is by hand.
- (5) The counting officer must not count any tendered ballot paper.
- (6) The counting officer, while counting and recording the number of ballot papers and counting the votes, must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (7) The counting officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by the officer, and the unused and spoilt ballot papers in the officer's possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and must draw up a statement as to the result of the verification, which any counting observer may copy.
- (8) Where the referendum area comprises any part of the area of more than one relevant council, as soon as is practicable after the counting officer has drawn up the statement as to the result of the verification, the counting officer must inform the Chief Counting Officer of its content.
- (9) The counting officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that the counting officer may exclude the hours between 7 in the evening and 9 on the following morning.
- (10) During the time so excluded the counting officer must—
  - (a) place the ballot papers and other documents relating to the referendum under the counting officer's own seal; and

- (b) otherwise take proper precautions for the security of the papers and documents.

#### Textual Amendments

- F1** Word in Sch. 3 rule 37(3)(c) omitted (with effect in accordance with reg. 1(2) of the amending S.I.) by virtue of The Representation of the People (Postal Vote Handling and Secrecy) (Amendment) Regulations 2023 (S.I. 2023/1225), reg. 9(2)(b)(i)
- F2** Sch. 3 rule 37(3)(e) and word inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Representation of the People (Postal Vote Handling and Secrecy) (Amendment) Regulations 2023 (S.I. 2023/1225), reg. 9(2)(b)(ii)
- F3** Sch. 3 rule 37(3A) inserted (6.4.2014) by The Neighbourhood Planning (Referendums) (Amendment) Regulations 2014 (S.I. 2014/333), regs. 1(6), 7 (with reg. 1(7))

#### Re-count

**38.**—(1) The counting officer may have the votes re-counted or again re-counted.

(2) Paragraphs (3) to (7) apply where the referendum area comprises any part of the area of more than one relevant council.

(3) As soon as practicable after the conclusion of the count (which includes any re-count whether or not directed under this rule), the counting officer must draw up a provisional statement showing—

- (a) the number of ballot papers counted by the counting officer;
- (b) the number of votes cast in favour of each answer to the question asked in the referendum.

(4) As soon as possible after completion of the provisional statement, the counting officer must inform the Chief Counting Officer of its contents.

(5) Once the Chief Counting Officer has received the report of any counting officer on the contents of that counting officer's provisional statement prepared under paragraph (3) and under rule 39(5), the Chief Counting Officer may direct the counting officer to re-count (or further re-count) the votes.

(6) A re-count directed by the Chief Counting Officer under paragraph (5) may be of the votes in the whole referendum area, or in the areas of such of the relevant councils falling within the referendum area as the Chief Counting Officer considers reasonable.

(7) A counting officer must proceed with a re-count as soon as practicable after receipt of the Chief Counting Officer's direction, and if not proceeding forthwith must notify those counting observers entitled to be present at the re-count of the time and place at which the counting officer will begin to re-count the votes.

#### Rejected ballot papers

**39.**—(1) Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which votes are given for more than one answer; or
- (c) on which anything is written or marked by which the voter or proxy can be identified except the printed number and other unique identifying mark on the back; or
- (d) which is unmarked or void for uncertainty,

is, subject to paragraph (2), void and must not be counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place; or

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- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

is not for such reason deemed to be void if an intention that the vote is for one or the other of the answers clearly appears, and the way the paper is marked does not itself identify the voter or proxy and it is not shown that the voter or proxy can be identified by it.

(3) The counting officer must endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and must add to the endorsement the words “rejection objected to” if any objection is made by a counting observer to the counting officer's decision.

(4) Subject to paragraph (5), the counting officer must draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one answer;
- (c) writing or mark by which the voter or proxy could be identified;
- (d) unmarked or void for uncertainty.

(5) Where the referendum area comprises any part of the area of more than one relevant council, the statement referred to in paragraph (4) above is to be a provisional statement and as soon as practicable after the completion of that statement, the counting officer must inform the Chief Counting Officer of its contents.

### **Decisions on ballot papers**

**40.** The decision of the counting officer on any question arising in respect of a ballot paper is final.

### **Equality of votes**

**41.** Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between the answers, the result is that there is no majority in favour of the making of the plan or order.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 rule 25(1)(b) words inserted by [S.I. 2023/1147 reg. 18\(3\)\(a\)](#)
- Sch. 3 rule 25 table words omitted by [S.I. 2023/1147 reg. 18\(3\)\(b\)\(ii\)](#)
- Sch. 3 rule 25 table words substituted by [S.I. 2023/1147 reg. 18\(3\)\(b\)\(i\)](#)
- Sch. 3 rule 25(2) words substituted by [S.I. 2023/1147 reg. 18\(3\)\(c\)](#)
- Sch. 5 rule 25(1)(b) words inserted by [S.I. 2023/1147 reg. 18\(7\)\(a\)](#)
- Sch. 5 rule 25 table words omitted by [S.I. 2023/1147 reg. 18\(7\)\(b\)\(ii\)](#)
- Sch. 5 rule 25 table words substituted by [S.I. 2023/1147 reg. 18\(7\)\(b\)\(i\)](#)
- Sch. 5 rule 25(2) words substituted by [S.I. 2023/1147 reg. 18\(7\)\(c\)](#)