
STATUTORY INSTRUMENTS

2023 No. 1225

The Representation of the People (Postal Vote Handling and Secrecy) (Amendment) Regulations 2023

The Neighbourhood Planning (Referendums) Regulations 2012

9.—(1) The Neighbourhood Planning (Referendums) Regulations 2012⁽¹⁾ are amended as follows.

(2) In Schedule 3 (the neighbourhood planning referendums rules)—

(a) in rule 22 (admission to polling station), in paragraph (1) after sub-paragraph (b) insert—

“(ba) persons aged 18 or over returning a postal ballot paper or postal voting statement by hand in accordance with rule 37(4)(b);”;

(b) in rule 37 (the count), in paragraph (3)—

(i) omit the “and” at the end of sub-paragraph (c);

(ii) after sub-paragraph (d) insert—

“and

(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.”;

(c) in Part 8 (appendix of forms), for form 6 (postal voting statement), form 8 (official postal poll card) and form 10 (official proxy postal poll card) substitute the corresponding forms set out in Part 1 of Schedule 7 to these Regulations.

(3) In Schedule 4 (application, with modification, of other Acts and subordinate legislation)—

(a) in Table 1 (Representation of the People Act 1983)—

(i) in the entry for section 66 (requirement of secrecy), in the second column after the modification already listed insert—

“In subsection (6A), in the definition of “relevant election” (in which all references to “election” are modified to be construed as references to “referendum” by regulation 8(4)(a))—

(a) omit paragraph (a), and

(b) in paragraph (b) omit “under the local government Act”.”;

(ii) after the entry for section 112 (providing money for illegal purposes) insert the following entry—

“Section 112A (handling of postal voting documents by political campaigners) In subsection (7)—

(a) omit paragraphs (a) to (d),

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(b) in paragraph (g) for “any of paragraphs (a) to (f)” substitute “paragraph (e) or (f)”, and

(c) after paragraph (h) insert—

“(i) a person involved in the conduct or management of a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in the relevant referendum.”.

In subsection (8), in the definition of “relevant election” (in which all references to “election” are modified to be construed as references to “referendum” by regulation 8(4)(a))—

(a) omit paragraph (a), and

(b) in paragraph (b) for “local government election” substitute “referendum”.”;

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- (b) in Table 6 (the Representation of the People (England and Wales) Regulations 2001)—
- (i) in the entry which begins regulation 4(1)(b), for “K” substitute “K1”;
 - (ii) in the entry for regulation 61C after “statement” insert “or document”;
 - (iii) for the entry for regulation 79(3) to (5) substitute—

“Regulation 79(2A), (2B), (4) and (4A) In paragraph (4A) for “polling agents” (alternative means of returning postal ballot paper or postal voting statement) substitute “polling observers (if any)”.

After paragraph (4A) insert—

“(4B) For the purpose of paragraph (4A), in relation to a referendum under Schedule 4B to the Town and Country Planning Act 1990, “polling observer” has the meaning given in regulation 2 of the Neighbourhood Planning (Referendums) Regulations 2012”.

Regulation 79A (requirements of return of postal voting documents form)

Regulation 79B (rejection of postal voting documents handed in at a polling station)

Regulation 79C (procedure for dealing with rejected postal voting documents handed in at a polling station) In paragraph (2) for “polling agents” substitute “polling observers (if any)”.

After paragraph (4) insert—

“(5) for the purpose of paragraph (2), in relation to a referendum under Schedule 4B to the Town and Country Planning Act 1990, “polling observer” has the meaning given in regulation 2 of the Neighbourhood Planning (Referendums) Regulations 2012.”.

Regulation 79D (postal voting documents left behind at a polling station)”;

(iv) after the entry for regulation 82 insert—

“Regulation 82A (postal voting documents handed in to the returning officer) In paragraph (1), for the words from “in accordance with” to the end substitute “in accordance with rule 37(4)(a) of the Neighbourhood Planning Referendums Rules or rule 37(6)(a) of the Neighbourhood Planning Referendums (Combination of Polls) Rules”.

Regulation 82B (rejection of postal voting documents handed in to the returning officer)

Regulation 82C (procedure for dealing with rejected postal voting documents handed in to the returning officer)

Regulation 82D (postal voting documents left behind with the returning officer)

Regulation 82E (opening of delivered or collected packets of postal voting documents)”;

(v) in the entry for regulation 87, in the first column after “ballot papers” insert “or postal voting documents”;

(vi) in the entry for Schedule 3, Form K, for “Form K” substitute “Form K1”.

(4) In Schedule 5 (the neighbourhood planning referendums (combination of polls) rules)—

(a) in rule 18 (equipment of polling stations), in paragraph (10), for the voting instructions for election of the mayor of London (which begins “#On the ballot paper”) substitute—

“#Vote for ONLY ONE candidate by putting a cross [X] in the box next to your choice.”;

(b) in rule 22 (admission to polling station) in paragraph (1) after sub-paragraph (b) insert—

“(ba) persons aged 18 or over returning a postal ballot paper or postal voting statement by hand in accordance with rule 37(6)(b);”;

(c) in rule 37 (the count), in paragraph (5)—

(i) omit the “and” at the end of sub-paragraph (c);

(ii) after sub-paragraph (d) insert—

“and

- (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.”;
- (d) in Part 8 (appendix of forms), for form 6 (postal voting statement for use where there is joint issue and receipt of postal ballot papers), form 7 (postal voting statement for use where a referendum poll is combined with another poll but the postal ballot papers are not combined), form 9 (official postal poll card to be sent to a voter voting by post) and form 11 (official proxy postal poll card to be sent to an appointed proxy voting by post) substitute the corresponding forms set out in Part 2 of Schedule 7 to the Regulations.
- (5) In Schedule 7 (the neighbourhood planning business referendums rules)—
- (a) in rule 2 (interpretation), in paragraph (1), in the appropriate places, insert—
- ““left behind postal voting document” is a postal voting document that is left behind at a polling station or left for the returning officer without being handed in and for which no return of postal voting documents form has been completed.”;
- ““postal voting document” means a postal ballot paper, postal voting statement or other document that has been issued to a person for the purpose of enabling the person to vote by post in a business referendum.”;
- ““relevant officer” means—
- (a) where a postal voting document is handed in at a polling station—
- (i) the person presiding at the polling station, or
- (ii) a clerk at the polling station;
- (b) where a postal voting document is handed into the counting officer, a person acting under the authority of that officer.”;
- ““return of postal voting documents form” has the meaning given in rule 27A.”;
- (b) in rule 27 (alternative means of returning postal ballot paper or postal voting statement)—
- (i) in paragraph (3)—
- (aa) for “paragraph (4)” substitute “paragraphs (3A) and (4)”;
- (bb) after “that station” insert “and any return of postal voting documents form”;
- (ii) after paragraph (3) insert—
- “(3A) A postal ballot paper or postal voting statement may only be delivered to the counting officer in accordance with paragraph (3) if the requirements of rule 27A are met and the paper and statement are not rejected in accordance with rule 27B or 27D.”;
- (iii) in paragraph (4), after “statement” insert “and any return of postal voting documents form”;
- (iv) for paragraph (5) substitute—
- “(5) Where the counting officer collects, or causes to be collected, any postal ballot paper or postal voting statement or return of postal voting documents form in accordance with paragraph (4) the presiding officer must first make up into separate packets sealed with the presiding officer’s own seal and the seals of such polling observers as are present and desire to affix their seals with a description of its contents written on each packet—
- (a) the postal ballot papers and postal voting statements; and
- (b) the return of postal voting documents forms for those postal ballot papers and postal voting statements.”;

(c) after rule 27 insert—

“Requirements of return of postal voting documents form

27A. The requirements of this rule are—

- (a) the person handing in a postal voting document (“P”) completes a form containing the following information (a “return of postal voting documents form”)—
 - (i) P’s name and address,
 - (ii) whether P is handing in P’s own postal voting documents,
 - (iii) the number of other named voters for whom P is handing in postal voting documents,
 - (iv) the total number of envelopes containing postal ballot papers P is handing in, including P’s own,
 - (v) the reason P is handing in postal voting documents for other named voters,
 - (vi) a declaration by P that P has not handed in postal voting documents at any polling station or to the counting officer for a total of more than the number of named voters other than P set out in rule 27B(1)(c) or 30B(1)(c), including those being handed in at that time and that to the best of P’s knowledge, P is not a political campaigner for whom it is an offence to handle the postal voting documents concerned in accordance with section 112A of the 1983 Act;
- (b) the relevant officer has endorsed the return of postal voting documents form returned by P to confirm the relevant officer’s name and that—
 - (i) the relevant officer is satisfied that the form has been completed properly and provides the information required by paragraph (a),
 - (ii) the relevant officer does not suspect that the number of named voters other than P for whom P is handing in postal voting documents exceeds the number of named voters specified in rule 27B(1)(b) or (c), or rule 30B(1)(b) or (c),
 - (iii) the relevant officer does not suspect that P is a political campaigner who is committing an offence under section 112A of the 1983 Act, and
 - (iv) the postal voting documents to which the form relates are not rejected.

Rejection of postal voting documents handed in at a polling station

27B.—(1) A relevant officer must reject—

- (a) all postal voting documents handed in by P where P fails to fully complete the return of postal voting documents form with the required information;
- (b) all postal voting documents handed in by P other than P’s own postal voting documents where the relevant officer has reasonable cause to suspect that the documents are handed in on behalf of more than five other named voters; and
- (c) a postal voting document handed in by P or all postal voting documents handed in together by P (other than P’s own postal voting documents) where the relevant officer has reasonable cause to suspect that, taking that document or those documents together with any postal voting documents handed in by P on any previous occasion in respect of the same referendum, or in respect of an election or referendum for which the day of poll is the same as the referendum to which

the documents relate (whether at a polling station or to the counting officer and disregarding any that were rejected), P has handed in postal voting documents on behalf of more than five other named voters.

(2) Where P hands in one or more proxy postal ballot papers completed by P as proxy for another named voter, for “five” in paragraphs (1)(b) and (c), substitute the number that is five minus the number of proxy postal ballot papers P hands in.

(3) A relevant officer may reject a postal voting document handed in by P where the relevant officer knows or has reasonable cause to suspect that, in handing in the document, P is committing an offence under section 112A of the 1983 Act.

Procedure for dealing with rejected postal voting documents handed in at a polling station

27C.—(1) Where any postal voting document has been rejected in accordance with rule 27B the relevant officer must indicate this, together with the reason or reasons for the rejection and the relevant officer’s name, on the return of postal voting documents form and attach the form to the postal voting documents concerned.

(2) The presiding officer must make up a packet (or packets) of the rejected postal voting documents and the accompanying return of postal voting documents forms, sealed with the presiding officer’s own seal and the seals of such polling observers as are present and desire to affix their seals with a description of its contents written on each packet.

(3) Where a return of postal voting documents form relates to postal voting documents which have not all been rejected, that form must be dealt with as if it related just to rejected postal voting documents, and the postal voting documents which have been rejected must be noted on it.

(4) The presiding officer must deliver, or cause to be delivered, to the counting officer, those packets in the same manner and at the same time as the presiding officer delivers, or causes to be delivered, to the counting officer, the packets referred to in rule 62.

Postal voting documents left behind at a polling station

27D.—(1) Where a person leaves a left behind postal voting document at a polling station, the relevant officer must reject that left behind postal voting document.

(2) The relevant officer must—

- (a) write on a return of postal voting documents form to confirm that the postal voting document is a left behind postal voting document,
- (b) write the relevant officer’s name on that form, and
- (c) attach that form to the left behind postal voting document.

(3) Left behind postal voting documents and the attached return of postal voting documents forms must be included in the packet of rejected postal voting documents and forms made up in accordance with rule 27C(2).”;

(d) in rule 30 (receipt of covering envelope) for “(whether by hand or by post)” substitute “by post”;

(e) after rule 30 insert—

“Postal voting documents handed in to the counting officer

30A.—(1) Subject to paragraphs (2) and (3), the relevant officer must deliver to the counting officer—

- (a) any postal voting document handed in under rule 64(4)(a) before the close of the poll, and
 - (b) the return of postal voting documents form completed in respect of it.
- (2) A postal voting document may only be delivered to the counting officer in accordance with paragraph (1) if the requirements of rule 27A are met and the document is not rejected in accordance with rule 30B or 30D.
- (3) Before delivering them to the counting officer in accordance with paragraph (1), the relevant officer must first make up into separate packets with a description of its contents written on each packet which is then sealed up—
- (a) the postal voting documents;
 - (b) the return of postal voting documents forms for those postal voting documents.

Rejection of postal voting documents handed in to the counting officer

30B.—(1) The relevant officer must reject—

- (a) all postal voting documents handed in by P where P fails to fully complete the return of postal voting documents form with the required information;
 - (b) all postal voting documents handed in by P other than P’s own postal voting documents where the relevant officer has reasonable cause to suspect that the documents are handed in on behalf of more than five other named voters;
 - (c) a postal voting document handed in by P or all postal voting documents handed in together by P (other than P’s own postal voting documents) where the relevant officer has reasonable cause to suspect that, taking that document or those documents together with any postal voting documents handed in by P on any previous occasion in respect of the same business referendum, or in respect of an election or referendum for which the day of poll is the same as the referendum to which the documents relate (whether to a polling station or to the counting officer and disregarding any that were rejected), P has handed in postal voting documents on behalf of more than five other named voters.
- (2) Where P hands in one or more proxy postal ballot papers completed by P as proxy for another named voter, for “five” in paragraphs (1)(b) and (c), substitute the number that is five minus the number of proxy postal ballot papers P hands in.
- (3) The relevant officer may reject a postal voting document handed in by P where the relevant officer knows or has reasonable cause to suspect that, in handing in the document, P is committing an offence under section 112A of the 1983 Act.

Procedure for dealing with rejected postal voting documents handed in to the counting officer

- 30C.**—(1) Where any postal voting document has been rejected in accordance with rule 30B the relevant officer must indicate this, together with the reason or reasons for the rejection and the relevant officer’s name, on the return of postal voting documents form and attach the form to the postal voting documents concerned.
- (2) The relevant officer must make up a packet (or packets) of the rejected postal voting documents and the accompanying return of postal voting documents forms which must be sealed up with a description of its contents written on each packet.
- (3) Where a return of postal voting documents form relates to postal voting documents which have not all been rejected, that form must be dealt with as if it related just to rejected

postal voting documents, and the postal voting documents which have been rejected must be noted on it.

(4) The relevant officer must deliver those packets to the counting officer before the close of the poll.

Postal voting documents left behind with the counting officer

30D.—(1) This rule applies to a postal voting document to which rule 64(4)(a) applies and which is a left behind postal voting document.

(2) The relevant officer must—

- (a) reject the left behind postal voting document,
- (b) write on a return of postal voting documents form to confirm that the postal voting document is a left behind postal voting document,
- (c) write the relevant officer’s name on that form, and
- (d) attach that form to the left behind postal voting document.

(3) Left behind postal voting documents and the attached return of postal voting documents forms must be included in the packet of rejected postal voting documents and forms made up in accordance with regulation 30C(2).

Opening of delivered or collected packets of postal voting documents

30E.—(1) Paragraph (2) applies to the packets of postal voting documents delivered to or collected by the returning officer in accordance with rule 27(3) or (4) or 30A(1).

(2) Rules 28, 29(6), 31(1) and 32 apply to a packet to which this paragraph applies as if that packet were a postal voters’ ballot box.”;

(f) in rule 41 (sealing of receptacles), in paragraph (1) after sub-paragraph (f) insert—

“(g) the packets of rejected postal voting documents and accompanying return of postal voting documents forms made up in accordance with rules 27C(2) and 30C(2),”;

(g) in rule 42 (forwarding of documents), in paragraph (1)(a) after “26(8),” insert “27(5)(b), 30A(3)(b),”;

(h) in rule 49 (admission to polling station) in paragraph (1) after sub-paragraph (b) insert—

“(ba) persons aged 18 or over returning a postal ballot paper or postal voting statement by hand in accordance with rule 64(4)(b);”;

(i) in rule 64 (the count), in paragraph (3)—

(i) omit the “and” at the end of sub-paragraph (c);

(ii) after sub-paragraph (d) insert—

“and

(e) the postal ballot paper is not one that falls to be rejected in accordance with rule 27B, 27D, 30B or 30D.”;

(j) in Part 10 (appendix of forms), for form 4 (form of business referendum postal voting statement) substitute the corresponding form set out in Part 3 of Schedule 7 to these Regulations.

(6) In Schedule 8, in Table 1 (Representation of the People Act 1983)—

(a) in the entry for section 66 (requirement of secrecy)—

(i) in the first column after “except” insert “(5),”;

(ii) in the second column—

(aa) in the first line, for “(4)” substitute “(4B)”;

(bb) after substituted subsection (3) insert—

“(3A) No person may—

- (a) except for some purpose authorised by law, obtain or attempt to obtain information, or communicate at any time to any other person any information, as to the number or other unique identifying mark on the back of a ballot paper sent to a named voter for voting by post at a business referendum;
- (b) except for some purpose authorised by law, obtain or attempt to obtain information, or communicate at any time to any other person any information, as to the official mark on a ballot paper sent to a named voter for voting by post at a business referendum;
- (c) obtain or attempt to obtain information, in the circumstances mentioned in subsection (3B), as to the answer for which a named voter voting by post at a business referendum (“V”) is about to vote or has voted;
- (d) communicate at any time to any other person information obtained in contravention of paragraph (c).

(3B) The circumstances referred to in subsection (3A)(c) are where V is about to mark, is in the process of marking, or has just marked, a ballot paper sent to V for voting by post at the business referendum.

(3C) But—

- (a) a business vote holder who has named another individual as voting on their behalf does not contravene subsection (3A) by obtaining or attempting to obtain from the named voter information as to a matter mentioned in paragraphs (a) or (c) of that subsection that relates to the business vote holder’s vote, and
- (b) a named voter who has been named as voting on behalf of a business vote holder does not contravene subsection (3A) by communicating to that business vote holder information as to a matter mentioned in paragraphs (a) or (c) of that subsection that relates to that business vote holder’s vote.

(3D) Subsections (3A)(c) and (d) do not apply where the purpose (or main purpose) for which the information is sought or communicated is its use for the purposes of—

- (a) a published statement relating to the way in which voters intend to vote or have voted at the business referendum, or
- (b) a published forecast as to the result of that referendum which is based on information given by voters.

(3E) In subsection (3D)—

- (a) “forecast” includes estimate;
- (b) “published” means made available to the public at large or to any section of the public, in whatever form and by whatever means;

(c) the reference to the result of the business referendum is a reference to the result of the referendum as a whole or so far as any particular answer of the referendum is concerned.

(3F) A named voter who has been named as voting on behalf of a business vote holder at a business referendum—

(a) must not communicate at any time to any person other than that business vote holder any information as to the answer for which the named voter is about to vote, or has voted, on behalf of the business vote holder;

(b) except for some purpose authorised by law, must not communicate at any time to any person other than that business vote holder the number or other unique identifying mark on the back of a ballot paper sent or delivered to the named voter for voting on behalf of the business vote holder.”;

(cc) after substituted subsection (4) insert—

“(4A) No person having undertaken to assist a relevant named voter to vote at a business referendum may communicate at any time to any person except that voter any information as to—

(a) the answer for which the relevant named voter intends to vote or has voted, or

(b) the number or other unique identifying mark on the back of the ballot paper given for the use of the relevant named voter.

(4B) In subsection (4A) “relevant named voter” means a named voter who is blind, has another disability, or is unable to read.”;

(dd) after the substituted text, insert—

“In subsection (6A), in the definition of “relevant election” (in which all references to “election” are modified to be construed as references to “business referendum” by regulation 17(6)(a))—

(a) omit paragraph (a), and

(b) in paragraph (b) omit “under the local government Act”.”;

(b) after the entry for section 112 (providing money for illegal purposes) insert—

“Section 112A (handling of postal voting documents by political campaigners) In subsection (7)—

(a) omit paragraphs (a) to (d),

(b) in paragraph (g) for “any of paragraphs (a) to (f)” substitute “paragraph (e) or (f)”, and

(c) after paragraph (h) insert—

“(i) a person involved in the conduct or management of a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in the relevant business referendum.”.

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In subsection (8), in the definition of “relevant election” (in which all references to “election” are modified to be construed as references to “business referendum” by regulation 17(6)(a))

—

(a) omit paragraph (a), and

(b) in paragraph (b) for “local government election” substitute “business referendum”.
