

## SCHEDULE 3

### Mayoral Election (Combination of Polls) Rules

## PART 4

### Contested elections

#### The first count

47.—(1) Where the returning officer at the mayoral election discharges the functions specified in regulation 5 of the Combination of Polls Regulations, he must—

- (a) in the presence of the counting agents appointed for the purposes of the mayoral election and each relevant election or referendum open each ballot box and count and record separately the number of ballot papers used in each election;
- (b) in the presence of the election agents appointed for the purposes of the mayoral election and each relevant election or referendum verify each ballot paper account;
- (c) count such of the postal ballot papers as have been duly returned and record separately the number counted at the mayoral election and each relevant election or referendum;
- (d) separate the ballot papers relating to the mayoral election from the ballot papers relating to each relevant election or referendum;
- (e) make up into packets the ballot papers for each relevant election or referendum and seal them up into separate containers endorsing on each a description of the area to which the ballot papers relate;
- (f) deliver or cause to be delivered to the returning officer for the relevant election or referendum to which the ballot papers relate—
  - (i) those containers, together with a list of them and of the contents of each; and
  - (ii) the ballot paper accounts together with a copy of the statement as to the result of their verification in respect of that election; and
- (g) at the same time deliver or cause to be delivered to that officer packets that so relate containing—
  - (i) the unused and spoilt ballot papers,
  - (ii) the tendered ballot papers.
  - (iii) the certificates as to employment on duty on the day of the poll.

(2) After completion of the proceedings under paragraph (1), the returning officer shall mix together all of the ballot papers used at the mayoral election and count the votes given on them.

(3) Where separate ballot boxes are used, no vote for any candidate shall be rendered invalid by the ballot paper being placed in the ballot box intended for use at any relevant election or referendum.

(4) Where the returning officer at the mayoral election does not discharge the functions specified in regulation 5 of the Combination of Polls Regulations, he must—

- (a) on receipt of containers containing the ballot papers from the returning officer who does discharge those functions, and after the time specified in the notice given under rule 46(2), in the presence of the counting agents, open each container;
- (b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at a relevant election or referendum under regulation 65 of the Elections Regulations, or under that regulation as applied by these Regulations or

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- regulations made under sections 45 and 105 of the Local Government Act 2000<sup>(1)</sup>, count such of the postal ballot papers as have been duly returned and record the number counted; and
- (c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.
- (5) Paragraph (12) does not apply to proceedings under paragraph (4).
- (6) The returning officer must then—
- (a) where the election is contested by more than two candidates, count the first preference votes given on them;
- (b) where the election is contested by only two candidates, count the votes given on them
- (7) A postal ballot paper must not be taken to be duly returned unless—
- (a) it is returned in the manner set out in paragraph (8) and reaches the returning officer or any polling station in the appropriate electoral area before the close of the poll;
- (b) the postal voting statement, duly signed, is also returned in the manner set out in paragraph (8) and reaches him or such a polling station before that time;
- (c) the postal voting statement also states the date of birth of the elector or proxy (as the case may be), and
- (d) in a case where steps for verifying the date of birth and signature of an elector or proxy have been prescribed by regulations made under the 1983 Act<sup>(2)</sup>, the returning officer (having taken such steps) verifies the date of birth and signature of the elector or proxy.
- (8) The manner in which any postal ballot paper or postal voting statement may be returned—
- (a) to the returning officer, is by hand or by post;
- (b) to a polling station, is by hand.
- (9) The appropriate electoral area in respect of any voter shall be—
- (a) the area which is common to the parliamentary constituency, electoral area, local counting area, local authority area or voting area (as the case may be) in which the polls at the mayoral election and any relevant election or referendum are being taken together; and
- (b) in respect of which polls the voter has been issued with a postal ballot paper.
- (10) The returning officer must not count any tendered ballot papers.
- (11) While counting and recording the number of ballot papers and counting the votes, the returning officer 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.
- (12) The returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his 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 election agent may copy.
- (13) The returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may exclude the hours between 7 in the evening and 9 on the following morning.
- (14) During the time so excluded the returning officer must—

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(1) 2000 c.22

(2) See regulations 85 and 85A of the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341), which were inserted by S.I. 2006/2910.

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- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.