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DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

**The Voter Identification Regulations 2022**

**PART 10**

Amendment of conduct rules for other elections, referendums and recall petitions

**Amendment of Schedule 1 (combined authorities mayoral election rules)**

**94.**—(1) Schedule 1 (combined authorities mayoral election rules) is amended as follows.

(2) In the list of contents—

- (a) in the appropriate place insert “41A Refusal to deliver ballot paper”;
- (b) in the appropriate place insert “41B Collection and disclosure of information relating to applications made under rules 37 to 40”;
- (c) in the appropriate place insert “Form 11A—Ballot paper refusal list”.

(3) In rule 2 (interpretation), for paragraph (1) substitute—

“(1) In these Rules—

“anonymous elector’s document” has the meaning given in regulation 3(1) of the Voter Identification Regulations 2022;

“the Appendix” means the Appendix to these Rules contained in Part 9 of this Schedule;

“temporary electoral identity document” has the meaning given in regulation 3(1) of the Voter Identification Regulations 2022.”.

(4) In rule 25 (provision of polling stations) after paragraph (4) insert—

“(5) The returning officer must ensure that each polling station contains an area in which voters can produce proof of identity in private.”.

(5) In rule 26 (appointment of presiding officers and polling clerks), in paragraph (3), for the words from “except” to the end substitute—

“except—

- (a) order the arrest, exclusion or removal of any person from the polling station,
- (b) refuse to deliver a ballot paper under rule 35(3) or rule 37(1E) (including that rule as applied by rules 38, 39 or 40), or
- (c) resolve doubts over identity as mentioned in rule 37(1F) (including that rule as applied by rule 38, 39 or 40).”.

(6) In rule 28 (equipment of polling stations)—

(a) in paragraph (3) after sub-paragraph (d) insert—

“(e) a ballot paper refusal list, in the appropriate form in the Appendix or a form to like effect, on which entries are to be made as mentioned in rule 41A (refusal to deliver ballot paper).”;

(b) after paragraph (6) insert—

“(6A) A large notice must be displayed inside each polling station containing—

(a) details of the documents the elector or proxy needs to produce when applying for a ballot paper, namely—

(i) in the case of an elector (other than an elector with an anonymous entry) or a proxy, any of the forms of identification for the time being referred to in rule 37(1H) of Schedule 1 to the 1983 Act (parliamentary elections rules);

(ii) in the case of an elector with an anonymous entry, the elector’s official poll card and an anonymous elector’s document showing the same electoral number as the electoral number shown on the official poll card; and

(b) a statement that further proof of identity may be required to resolve any discrepancy between the name of the holder of a form of identification and the name of the elector or proxy that the voter claims to be.”.

(7) In rule 35 (questions to be put to voters)—

(a) in the table following paragraph (1), in the column headed “Question”, in entry 1 (electors), entry 2 (proxies), entry 3 (proxies for an elector with an anonymous entry), entry 5 (postal voters) and entry 6 (proxy postal voters), before question (a) insert—

“(za) What is your name?

(zb) What is your address?”;

(b) after paragraph (2) insert—

“(2A) Where a clerk—

(a) gives a person the required information (see paragraph (5)),

(b) puts a question specified in paragraph (1) to the person, and

(c) decides that the person has failed to answer the question satisfactorily,

the clerk must refer the matter to the presiding officer, who must put the question to the person again.”;

(c) for paragraph (3) substitute—

“(3) Where the presiding officer—

(a) gives a person the required information,

(b) puts a question specified in paragraph (1) to the person (whether or not following a referral under paragraph (2A)), and

(c) decides that the person has failed to answer the question satisfactorily,

the officer must refuse to deliver a ballot paper to the person (and see rule 41A (procedure where ballot paper is refused under this paragraph)).

(3A) For the purposes of this rule, a person answers the question “What is your name?” or “What is your address?” satisfactorily if—

(a) where one of those questions is put, the answer matches a name or address (as the case may be) in the register of local government electors;

(b) where both those questions are put, the answers match a name and address in that register that relate to the same person.

(3B) In the case of an elector in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, the references to the register in paragraph (3A) are to be read as references to the notice issued under section 13B(3B) or (3D).”;

- (d) in paragraph (4), after “vote” insert “(and for the purposes of this paragraph, an inquiry relating to the production of identification by a voter is not to be regarded as an inquiry as to the right of the person to vote)”;
- (e) after paragraph (4) insert—
  - “(5) For the purposes of this rule, a person to whom any question is to be put is given “the required information” if the person is first informed that—
    - (a) a ballot paper will be refused if the person fails to answer each question satisfactorily, and
    - (b) giving false information may be an offence.”.
- (8) In rule 37 (voting procedure)—
  - (a) in paragraph (1)—
    - (i) for “A” substitute “Subject to rule 35(3) and to paragraphs (1A) to (1M), a”;
    - (ii) omit sub-paragraph (a);
  - (b) after paragraph (1) insert—
    - “(1A) A ballot paper must not be delivered to a voter unless the voter produces a specified document to the presiding officer or a clerk.
    - (1B) The presiding officer or clerk must arrange for the voter to produce any document in a private area of the polling station if the voter so requests, and, in such a case, must ensure that no other persons witness the production except as permitted by the voter.
    - (1C) Paragraph (1D) applies in relation to a voter where—
      - (a) the voter produces a specified document to a clerk and the clerk decides that the document raises a reasonable doubt as to whether the voter is the elector or proxy that the voter claims to be, or
      - (b) the voter produces a document to a clerk that the clerk reasonably suspects to be a forged document.
    - (1D) Where this paragraph applies, the clerk must refer the matter and produce the document to the presiding officer, who must proceed as if the voter had produced the document to the presiding officer in the first place.
    - (1E) The presiding officer must refuse to deliver a ballot paper to a voter where—
      - (a) the voter produces a specified document to the officer and the officer decides that the document raises a reasonable doubt as to whether the voter is the elector or proxy that the voter claims to be, or
      - (b) the voter produces a document to the officer that the officer reasonably suspects to be a forged document.
    - (1F) Paragraph (1E)(a) does not apply where—
      - (a) a discrepancy between the name of the holder of a specified document and the name of the elector or proxy that the voter claims to be is resolved to the presiding officer’s satisfaction at the time of the application by the voter producing further proof of identity, and
      - (b) the presiding officer has no other reason (arising from any document produced by the voter) to doubt that the voter is the elector or proxy that the voter claims to be.
    - (1G) The refusal to deliver a ballot paper to a voter under paragraph (1E) does not prevent the voter making a further application under paragraph (1), and paragraphs (1A) to (1F) apply on any further application.

(1H) In this rule, a “forged document” means a false document made to resemble a specified document.

(1I) In this rule, a “specified document”—

- (a) except in the case of a voter who has an anonymous entry in the register of electors, means a document which for the time being falls within the list specified in rule 37(1H) of Schedule 1 to the 1983 Act (parliamentary election rules);
- (b) in the case of a voter who has an anonymous entry in the register of electors, means an anonymous elector’s document which—
  - (i) was issued by the registration officer for the constituent council in whose area the polling station to which the voter is allotted is situated,
  - (ii) contains the number—
    - (aa) allocated to the voter as stated in the copy of the register of electors, or
    - (bb) where an entry relating to the voter is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act, as stated in the copy of that notice.

(1J) Subject to paragraph (1K), a reference in this rule to a document that is a specified document is a reference to the document regardless of any expiry date relating to it.

(1K) Paragraph (1J) does not apply to a temporary electoral identity document where the date of the poll for the election is after the date for which the document is issued.

(1L) No person other than the presiding officer or a clerk may inspect a document produced as proof of a voter’s identity, except as permitted by the voter.

(1M) References in this rule to producing a document are to producing it for inspection.”;

(c) in paragraph (2), omit the words from “and only” to the end;

(d) omit paragraph (3)(a).

(9) In rule 38 (votes marked by presiding officer)—

(a) in paragraph (1), for “The” substitute “Subject to paragraph (1A), the”;

(b) after paragraph (1) insert—

“(1A) Paragraphs (1A) to (1M) of rule 37 apply in the case of a voter who applies under paragraph (1) of this rule as those paragraphs apply in the case of a voter who applies under rule 37(1), but as if—

(a) references to delivering a ballot paper to a voter were to causing a voter’s vote to be marked on a ballot paper, and

(b) in rule 37(1G), the reference to paragraph (1) of rule 37 were to paragraph (1) of this rule.”.

(10) In rule 39 (voting by persons with disabilities)—

(a) in paragraph (2), for “If” substitute “Subject to paragraph (2A), if”;

(b) after paragraph (2) insert—

“(2A) Paragraphs (1A) to (1M) of rule 37 apply in the case of a voter who applies under paragraph (1) of this rule as those paragraphs apply in the case of a voter who applies under rule 37(1), but as if—

- (a) references to delivering a ballot paper to a voter were to granting a voter's application, and
  - (b) in rule 37(1G), the reference to paragraph (1) of rule 37 were to paragraph (1) of this rule.”.
- (11) In rule 40 (tendered ballot papers—circumstances where available), after paragraph (6) insert—

“(7) Paragraphs (1A) to (1M) of rule 37 apply in the case of a person who seeks to mark a tendered ballot paper under this rule as they apply in the case of a voter who applies for a ballot paper under rule 37(1), but as if, in rule 37(1G) the reference to making a further application under paragraph (1) of rule 37 were to seeking a further time to mark a tendered ballot paper under the paragraph of this rule under which the first such attempt was made.”.

- (12) After rule 41 (tendered ballot papers—general provisions) insert—

**“Refusal to deliver ballot paper**

**41A.**—(1) Where a presiding officer refuses to deliver a ballot paper to a voter who applied for one as an elector, the officer or a clerk must enter on the ballot paper refusal list—

- (a) the voter's electoral number, and
- (b) against that number, the reason for the refusal.

(2) Where a presiding officer refuses to deliver a ballot paper to a voter who applied for one as a proxy, the officer or a clerk must enter on the ballot paper refusal list—

- (a) the name and address of the voter, and
- (b) against those details, the reason for the refusal.

(3) Paragraphs (4) and (5) apply where—

- (a) a presiding officer refuses to deliver a ballot paper to a voter under rule 37(1E), and
- (b) the voter makes a further application as permitted by rule 37(1G).

(4) If a ballot paper is delivered to the voter following that application, the presiding officer or a clerk must note that fact on the ballot paper refusal list.

(5) If the presiding officer again refuses to deliver a ballot paper to the voter, the presiding officer or a clerk must note that fact on the ballot paper refusal list.

(6) Entries required by this rule to be made on the ballot paper refusal list must be made as soon as practicable after delivery of a ballot paper to a voter is refused (or, in the case mentioned in paragraph (4), as soon as practicable after the delivery of a ballot paper to a voter).

(7) For the purposes of paragraph (1)(a), a person's “electoral number” is the number—

- (a) allocated to the person as stated in the copy of the register of electors, or
- (b) where an entry relating to the person is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act, as stated in the copy of that notice.

(8) Subject to rule 37(1G) and paragraph (9), a refusal to deliver a ballot paper to a voter is final and may not be questioned in any proceeding whatsoever.

(9) A refusal to deliver a ballot paper to a voter is subject to review on an election petition.

(10) In this rule—

- (a) except in paragraph (3)(a), any reference to the refusal to deliver a ballot paper (however expressed) is to the refusal to do so under rule 35(3) or 37(1E), and

- (b) any reference to paragraph (1E) or (1G) of rule 37 includes a reference to that paragraph as applied by rule 38, 39 or 40.

**Collection and disclosure of information relating to applications made under rules 37 to 40**

**41B.**—(1) This rule applies in relation to an election to which the Secretary of State’s duty under section 59A(4) of the 1983 Act (reports on voter identification requirements in respect of local government elections) applies by virtue of subsection (5A) of that section.

(2) The presiding officer must—

- (a) collect the information described in regulation 34 of the Voter Identification Regulations 2022 (collection of information by presiding officer) relating to applications made under rules 37(1), 38(1), 39(1) or 40(1), and
- (b) provide that information to the returning officer as soon as practicable after the close of the poll.

(3) The returning officer must forward the information to the relevant registration officer.

(4) As soon as reasonably practicable after receiving the information the relevant registration officer must—

- (a) anonymise the information by removing from it all names and electoral numbers of the people to whom the information relates, and
- (b) collate the information in accordance with regulation 35 of the Voter Identification Regulations 2022 (collation of information by relevant registration officer).

The information as anonymised and collated in accordance with this paragraph is referred to in the rest of this rule as “the paragraph (4) information”.

(5) The relevant registration officer must provide the paragraph (4) information—

- (a) to the Secretary of State, as soon as reasonably practicable after taking the steps required by paragraph (4), and
- (b) where they request the information, to the Electoral Commission.

(6) The relevant registration officer must not disclose the paragraph (4) information otherwise than in accordance with paragraph (5).

(7) The relevant registration officer must retain the information anonymised in accordance with paragraph (4)(a) for at least 10 years.

(8) For the purpose of paragraph (4)(a), a person’s “electoral number” is the number—

- (a) allocated to the person as stated in the copy of the register of electors, or
- (b) where an entry relating to the person is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act, as stated in the copy of that notice.

(9) Except as provided by paragraph (10), a disclosure of information under this rule does not breach—

- (a) any obligation of confidence owed by the presiding officer, the returning officer or a registration officer, or
- (b) any other restriction on the disclosure of information (however imposed).

(10) Nothing in this rule authorises the making of a disclosure that contravenes the data protection legislation (but in determining whether a disclosure would do so, the duties imposed by paragraphs (2) and (3) are to be taken into account).

(11) In this rule—

- (a) “the data protection legislation” has the same meaning as in the Data Protection Act 2018;
  - (b) references to the relevant registration officer are to the registration officer of the constituent council in relation to whose area the returning officer exercises functions under this Order.”.
- (13) In rule 45 (procedure on close of poll), in paragraph (1) after sub-paragraph (d) insert—  
“(da) the ballot paper refusal list completed in accordance with rule 41A,”.
- (14) In rule 61 (sealing up of ballot papers), in paragraph (2) after sub-paragraph (b) insert—  
“(ba) the completed ballot paper refusal list,”.
- (15) In rule 62 (delivery and retention of documents), after paragraph (c) insert—  
“(ca) the packet containing the completed ballot paper refusal list,”.
- (16) In rule 63 (orders for production of documents), after paragraph (1) insert—  
“(1A) An order—  
(a) for the opening of the sealed packet containing a completed ballot paper refusal list, or  
(b) for the inspection or production of that list,  
may be made by the county court if satisfied by evidence on oath that the order is required for the purpose of an election petition.”.
- (17) In Part 9 (appendix of forms)—  
(a) in the list of forms, after the entry “Form 11: Official proxy postal poll card” insert “Form 11A: Ballot paper refusal list”;
- (b) for Form 8 (official poll card) substitute the corresponding form in Part 1 of Schedule 13;
- (c) for Form 10 (official proxy poll card) substitute the corresponding form in Part 1 of Schedule 13;
- (d) after Form 11 (official proxy postal poll card) insert new Form 11A (ballot paper refusal list) as set out in Part 1 of Schedule 13;
- (e) for Form 12 (directions for the guidance of voters) substitute the corresponding form in Part 1 of Schedule 13.