

Status: Point in time view as at 16/02/2011.

Changes to legislation: Representation of the People Act 1983 is up to date with all changes known to be in force on or before 08 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Modifications etc. (not altering text)

- C1 Parliamentary election rules modified (N.I.) (*prosp.*) by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 10, [Sch. 1 paras. 8–23](#)
- C1 [Paras. 3–7](#) of Pt. II of Sch. 1 to [Representation of the People Act 1985 \(c. 50, SIF 42\)](#) have effect (N.I.) (*prosp.*) by virtue of s. 10 of, and Sch. 1 para. 2 to, that Act as additional rules in Sch. 1 to this Act
- C1 [Sch. 1](#) applied with modifications (S.) by [S.I. 1986/2213](#), [Rules 2, 5](#)
[Sch. 1](#) applied (with modifications) (E.W.S.) (28.4.1999) by [1985 c. 50, s. 15\(1\)\(2\)](#) (as applied (with modifications) (28.4.1999) by [S.I. 1999/1214](#), [reg. 8](#), [Sch. 3](#)) (which S.I. was revoked (23.3.2004) by [S.I. 2004/293](#), [reg. 126](#))
- C1 [Sch. 1](#) modified (E.W.) by [S.I. 1986/1081](#), [regs. 2, 97, 98, 100](#) (which S.I. was revoked (23.3.2004) by [S.I. 2004/294](#), [reg. 3](#))
- C1 [Sch. 1](#) modified (S.) by [S.I. 1986/1111](#), [regs. 2, 95, 96, 98\(1\)](#)
[Sch. 1](#) modified (10.4.2001) by [2001 c. 7, s. 4](#), [Sch. para. 1](#)
[Sch. 1](#) modified (E.W.) (23.3.2004) by [The Representation of People \(Combination of Polls\) \(England and Wales\) Regulations 2004 \(S.I. 2004/294\)](#), [reg. 8](#), [Sch. 2](#)
- C1 [Sch. 1](#) extended (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), [art. 6\(1\)-\(4\)](#)

PART III

CONTESTED ELECTIONS

COUNTING OF VOTES

Attendance at counting of votes

- 44 (1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.
- (2) No person other than—
- (a) the returning officer and his clerks,
 - (b) the candidates and [^{F1}one other person chosen by each of them],
 - (c) the election agents,
 - (d) the counting agents,
 - [^{F2}(e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.]

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

- (3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the returning officer unless he—
- (a) is satisfied that the efficient counting of the votes will not be impeded; and
 - (b) has either consulted the election agents or thought it impracticable to do so.
- (4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.
- (5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.
- [^{F3}(6) In making arrangements under this rule, the returning officer shall have regard to the duty imposed on him by rule 45(3A) below.]

Textual Amendments

- F1** Words in [Sch. 1 rule 44\(2\)\(b\)](#) substituted (31.1.2007 for E.W.S. and 1.7.2008 for N.I.) by [Electoral Administration Act 2006 \(c. 22\)](#), ss. 47, 77, [Sch. 1 para. 85\(2\)](#); S.I. 2006/3412, [art. 5](#); S.I. 2008/1316, [arts. 2, 4](#)
- F2** [Sch. 1 rule 44\(2\)\(e\)](#) inserted (31.1.2007 for E.W.S. and 1.7.2008 for N.I.) by [Electoral Administration Act 2006 \(c. 22\)](#), ss. 47, 77, [Sch. 1 para. 85\(3\)](#); S.I. 2006/3412, [art. 5](#); S.I. 2008/1316, [arts. 2, 4](#)
- F3** [Sch. 1 rule 44\(6\)](#) inserted (8.4.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), [ss. 48\(2\), 52](#)

Modifications etc. (not altering text)

- C1** [Sch. 1 rules 43, 44](#) applied with modifications (N.I.) by S.I. 1986/2250, [regs. 2, 3, 5](#), [Sch. 1 Pt. I](#)
- C2** [Sch. 1 rules 43, 44](#) applied with modifications (E.W.S.) by S.I. 1986/2209, [regs. 2, 3, 5\(1\)\(6\)–\(8\)](#), [Sch. 1 Pt. I](#)
- C3** [Sch. 1 rule 44](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(5\)–\(8\)](#), [Sch. 1](#)
[Sch. 1 rule 44](#) applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, [art. 6](#), [Sch. 2](#)
- C4** [Sch. 1 rule 44](#) applied (with modifications) (1.8.2001) by [The Northern Ireland Assembly \(Elections\) Order 2001 \(S.I. 2001/2599\)](#), [art. 3](#), [Sch. 1](#) (as substituted (10.2.2009) by S.I. 2009/256, [arts. 1\(2\), 3](#), [Sch. 1](#); and modified (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), [s. 19\(1\)](#), [Sch. 8 para. 35](#))
- C5** [Sch. 1 rule 44\(5\)](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(b\)\(6\)\(d\)\(7\)](#)

The count

- 45 [^{F4}(1) The returning officer shall—
- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;
 - (b) in the presence of the election agents verify each ballot paper account; and
 - (c) count such of the postal ballot papers as have been duly returned and record the number counted.

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- (1A) The returning officer shall 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.]
- [^{F5}(1B) A postal ballot paper shall not, in England, Wales or Scotland, be taken to be duly returned unless—
- (a) it is returned in the prescribed manner and reaches the returning officer or a polling station in the constituency before the close of the poll, ^{F6} . . .
 - (b) [^{F7}the postal voting statement], duly signed ^{F8} . . . is also returned in the prescribed manner and reaches him or such a polling station before that time.]
 - [^{F9}(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, the returning officer (having taken such steps) verifies the date of birth and signature of the elector or proxy (as the case may be).]
- (2) A postal ballot paper shall not [^{F10}, in Northern Ireland,] be deemed to be duly returned unless
- [^{F11}(a)] it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated [^{F12}, and
 - (b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date stated corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of this Act.]
- [^{F13}(2A) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of this Act applies, the declaration of identity referred to in paragraph (2) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of this Act.]
- (3) The returning officer shall not count any tendered ballot paper.
- [^{F14}(3A) The returning officer shall take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within the period of four hours starting with the close of the poll.]
- (4) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers [^{F15}or other unique identifying marks] printed on the back of the papers.
 - (5) The returning officer shall 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 shall

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draw up a statement as to the result of the verification, which any election agent may copy.

- (6) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents agree, exclude the hours between 7 in the evening and 9 on the following morning.

For the purposes of this exception the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

- (7) During the time so excluded the returning officer shall—
- (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.

- [^{F16}(8) The Electoral Commission shall issue guidance to returning officers on the duty imposed by paragraph (3A) above.]

Textual Amendments

- F4** Sch. 1 rule 45(1)(1A) substituted for rule 45(1) by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 82**
- F5** Sch. 1 rule 45(1B) inserted (16.2.2001) by 2000 c. 2, s. 15(1)(4), **Sch. 6 para. 10(1)(4)(a)**; S.I. 2001/116, **art. 2(1)** (with art. 2(4))
- F6** Word in Sch. 1 rule 45(1B) omitted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by virtue of Electoral Administration Act 2006 (c. 22), ss. 47, 74(2), 77, **Sch. 1 para. 73(3)(a)**; S.I. 2006/3412, **art. 3**, Sch. 1 para. 14(w)(bb)(iii) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, **arts. 2, 4**
- F7** Words in Sch. 1 rule 45(1B)(b) substituted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by Electoral Administration Act 2006 (c. 22), ss. 47, 77, **Sch. 1 para. 73(2)(a)**; S.I. 2006/3412, **art. 3**, Sch. 1 para. 14(w)(bb)(iii) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, **arts. 2, 4**
- F8** Words in Sch. 1 rule 45(1B)(b) repealed (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by Electoral Administration Act 2006 (c. 22), ss. 47, 74(2), 77, Sch. 1 para. 73(2)(b), **Sch. 2**; S.I. 2006/3412, **art. 3**, Sch. 1 para. 14(w)(bb)(iii)(cc)(v) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, **arts. 2, 4**
- F9** Sch. 1 rule 45(1B)(c)(d) inserted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by Electoral Administration Act 2006 (c. 22), ss. 47, 77, **Sch. 1 para. 73(3)(b)**; S.I. 2006/3412, **art. 3**, Sch. 1 para. 14(w)(bb)(iii) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, **arts. 2, 4**
- F10** Words in Sch. 1 rule 45(2) inserted (16.2.2001) by 2000 c. 2, s. 15(1), **Sch. 6 para. 10(1)(4)(b)**; S.I. 2001/116, **art. 2(1)** (with art. 2(4))
- F11** Words in Sch. 1 rule 45(2) renumbered (N.I.) (1.12.2002) as Sch. 1 rule 45(2)(a) by Electoral Fraud (Northern Ireland) Act 2002 (c. 13), **s. 3(4)(c)(i)**; S.I. 2002/1648, {art. 4(1)} (with saving in art. 4(2))
- F12** Sch. 1 rule 45(2)(b) and preceding word inserted (N.I.) (1.12.2002) by Electoral Fraud (Northern Ireland) Act 2002 (c. 13), **s. 3(4)(c)(i)**; S.I. 2002/1648, **art. 4(1)** (with saving in art. 4(2))
- F13** Sch. 1 rule 45(2A) inserted (N.I.) (1.12.2002) by Electoral Fraud (Northern Ireland) Act 2002 (c. 13), **s. 3(4)(c)(ii)**; S.I. 2002/1648, **art. 4(1)** (with saving in art. 4(2))
- F14** Sch. 1 rule 45(3A) inserted (8.4.2010) by Constitutional Reform and Governance Act 2010 (c. 25), **ss. 48(3)(a), 52**
- F15** Words in Sch. 1 rule 45(4) inserted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by Electoral Administration Act 2006 (c. 22), ss. 47, 77, **Sch. 1 para. 91**; S.I. 2006/3412, **art. 3**, Sch. 1 para. 14(w)(bb)(iii) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, **arts. 2, 4**

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F16 Sch. 1 rule 45(8) inserted (8.4.2010) by [Constitutional Reform and Governance Act 2010 \(c. 25\)](#), [ss. 48\(3\)\(b\)](#), 52

Modifications etc. (not altering text)

C6 Sch. 1 rule 45 applied (with modifications) (E.W.S.) by [S.I. 1986/2209](#), [regs. 2, 3, 5\(1\)\(6\)-\(8\)](#), [Sch. 1 Pt. I](#)
Sch. 1 rule 45 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), [art. 3\(1\)\(b\)\(5\)-\(8\)](#), [Sch. 1](#)
Sch. 1 rule 45 applied (with modifications) (N.I.) (25.4.1998) by [S.I. 1998/1126](#), [art. 6](#), [Sch. 2](#)
Sch. 1 rule 45 applied (with modifications) (31.7.1997) by [1997 c. 61](#), [s. 3](#), [Sch. 3 para. 13](#) Table 2

Recount

- 46 (1) A candidate or his election agent may, if present when the counting or any recount of the votes is completed, require the returning officer to have the votes recounted or again recounted but the returning officer may refuse to do so if in his opinion the request is unreasonable.
- (2) No step shall be taken on the completion of the counting or any recount of votes until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Modifications etc. (not altering text)

C7 Sch. 1 rules 46–49 applied (E.W.S.) by [S.I. 1986/2209](#), [regs. 2, 3, 5\(1\)\(6\)-\(8\)](#), [Sch. 1 Pt. I](#)
C8 Sch. 1 rule 46 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), [art. 3\(1\)\(5\)-\(8\)](#), [Sch. 1](#)

Rejected ballot papers

- 47 (1) Any ballot paper—
- (a) which does not bear the official mark, or
 - (b) on which votes are given for more than one candidate, or
 - (c) on which anything is written or marked by which the voter can be identified except the printed number [^{F17}and other unique identifying mark] on the back, or
 - (d) which is unmarked or void for uncertainty,
- shall, subject to the provisions of the next following paragraph, be void and not counted.
- (2) A ballot paper on which the vote is marked—
- (a) elsewhere than in the proper place, or
 - (b) otherwise than by means of a cross, or
 - (c) by more than one mark,
- shall not for such reason be deemed to be void if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it.
- (3) The returning officer shall endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words “rejection objected to” if an objection is made by a counting agent to his decision.
- (4) The returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

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

Textual Amendments

F17 Words in [Sch. 1 rule 47\(1\)\(c\)](#) inserted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by [Electoral Administration Act 2006 \(c. 22\)](#), ss. 47, 77, [Sch. 1 para. 92](#); S.I. 2006/3412, [art. 3](#), [Sch. 1 para. 14\(w\)](#) (bb)(iii) (subject to transitional provisions in [art. 6](#), [Sch. 2](#)); S.I. 2008/1316, [arts. 2, 4](#)

Modifications etc. (not altering text)

- C9** [Sch. 1 rules 46–49](#) applied (E.W.S.) by S.I. 1986/2209, [regs. 2, 3, 5\(1\)\(6\)–\(8\)](#), [Sch. 1 Pt. I](#)
- C10** [Sch. 1 rule 47](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(b\)\(5\)–\(8\)](#), [Sch. 1](#)
[Sch. 1 rule 47](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(b\)\(6\)\(d\)\(7\)](#)
[Sch. 1 rule 47](#) applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, [art. 6](#), [Sch. 2](#)
- C11** [Sch. 1 rule 47](#) applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, [Sch. 3 para. 13](#) Table 2

Decisions on ballot papers

- 48 The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

Modifications etc. (not altering text)

- C12** [Sch. 1 rules 46–49](#) applied (E.W.S.) by S.I. 1986/2209, [regs. 2, 3, 5\(1\)\(6\)–\(8\)](#), [Sch. 1 Pt. I](#)
- C13** [Sch. 1 rule 48](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(b\)\(5\)–\(8\)](#), [Sch. 1](#)
[Sch. 1 rule 48](#) applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, [art. 6](#), [Sch. 1](#)

Equality of votes

- 49 Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Modifications etc. (not altering text)

- C14** [Sch. 1 rules 46–49](#) applied (E.W.S.) by S.I. 1986/2209, [regs. 2, 3, 5\(1\)\(6\)–\(8\)](#), [Sch. 1 Pt. I](#)
- C15** [Sch. 1 rule 49](#) applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, [art. 3\(1\)\(5\)–\(8\)](#), [Sch. 1](#)

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