

SCHEDULE 1

EUROPEAN PARLIAMENTARY ELECTIONS RULES

PART 5

Disposal of Documents

Sealing up of ballot papers

58.—(1) On the completion of the counting at a contested election (or, if later, its deemed completion under rule 48(6)) the local returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The local returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll.

Retention of documents by the local returning officer

59. The local returning officer shall then retain the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of voters with disabilities,
- (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll,
- (e) the packets containing marked copies of registers and of lists of proxies,

endorsing on each packet a description of its contents.

Orders for production of documents

60.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the local returning officer, or
- (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made, if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a European Parliamentary election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the local returning officer's custody may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening,

Status: This is the original version (as it was originally made).

as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the High Court from any order of a county court under this rule.

(5) Any power given under this rule to the High Court or to a county court, may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the local returning officer of any document in his possession relating to any specified election—

- (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(7) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

(8) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the local returning officer or to open any sealed packets of counterfoils and certificates.

(9) In the application of this rule to documents retained by the local returning officer for the Gibraltar local counting area, the references to the county court, except in paragraph (5)(b), and to the High Court in paragraph (4) shall be construed as references to the Gibraltar court.

Retention and public inspection of documents

61.—(1) The local returning officer shall retain for a year all documents relating to an election to which rule 59 applies, and then, unless otherwise directed by order of the High Court, shall cause them to be destroyed.

(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be prescribed by the local returning officer.

(3) The local returning officer may, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the local authority by which he is employed.