
STATUTORY INSTRUMENTS

2022 No. 1382

The Voter Identification Regulations 2022

PART 10

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

Amendment of Schedule 5 (local government act referendum combination of polls rules)

50.—(1) Schedule 5 (local government act referendum combination of polls rules) is amended as follows.

- (2) In the list of contents, in the appropriate place insert “32A Refusal to deliver ballot paper”.
- (3) In rule 2 (interpretation), in paragraph (1)—
 - (a) before the definition of “relevant returning or counting officer” insert—

““anonymous elector’s document” has the meaning given in regulation 3(1) of the Voter Identification Regulations 2022;”;
 - (b) after the definition of “relevant returning or counting officer” insert—

““temporary electoral identity document” has the meaning given in regulation 3(1) of the Voter Identification Regulations 2022;”.
- (4) In rule 14 (provision of polling stations), after paragraph (6) insert—

“(7) The counting officer must ensure that each polling station contains an area in which voters and proxies can produce proof of identity in private.”.
- (5) In rule 15 (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 26(3) or rule 28(1E) (including that rule as applied by rule 29, 30 or 31), or
 - (c) resolve doubts over identity as mentioned in rule 28(1F) (including that paragraph as applied by rule 29, 30 or 31).”.
- (6) In rule 17 (equipment of polling stations)—
 - (a) after paragraph (5) insert—

“(5A) The counting officer must provide each polling station with a ballot paper refusal list, in the form in the Appendix or a form to like effect, on which entries are to be made as mentioned in rule 32A (refusal to deliver ballot paper).”;
 - (b) after paragraph (8) insert—

“(8A) A large notice must be displayed inside each polling station containing—

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

- (i) in the case of a voter (other than a voter 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 a voter with an anonymous entry, the voter’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 voter or proxy that the voter or proxy claims to be.”.
- (7) In rule 26 (questions to be put to voters and proxies)—
- (a) in the table following paragraph (1), in the column headed “Questions”, in entry 1 (voters), entry 2 (proxies), entry 3 (proxies for a voter 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 the 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 32A for the procedure where a 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 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 a person 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 person 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 28 (voting procedure)—

(a) in paragraph (1)—

- (i) for “A” substitute “Subject to rule 26(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 or proxy unless the voter or proxy produces a specified document to the presiding officer or a clerk.

(1B) The presiding officer or clerk must arrange for the voter or proxy to produce any document in a private area of the polling station if the voter or proxy so requests, and, in such a case, must ensure that no other persons witness the production except as permitted by the voter or proxy.

(1C) Paragraph (1D) applies in relation to a voter or proxy where—

- (a) the voter or proxy produces a specified document to a clerk and the clerk decides that the document raises a reasonable doubt as to whether the voter or proxy is the voter or proxy that the voter or proxy claims to be, or
- (b) the voter or proxy 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 or proxy 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 or proxy where—

- (a) the voter or proxy produces a specified document to the officer and the officer decides that the document raises a reasonable doubt as to whether the voter or proxy is the voter or proxy that the voter or proxy claims to be, or
- (b) the voter or proxy 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 voter or proxy that the voter or proxy claims to be is resolved to the presiding officer’s satisfaction at the time of the application by the voter or proxy producing further proof of identity, and
- (b) the presiding officer has no other reason (arising from any document produced by the voter or proxy) to doubt that the voter or proxy is the voter or proxy that the voter or proxy claims to be.

(1G) The refusal to deliver a ballot paper to a voter or proxy under paragraph (1E) does not prevent the voter or proxy 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 or proxy who has an anonymous entry in the register of electors, is one 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 or proxy 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 local authority in whose area the referendum is held, and
 - (ii) contains the number—
 - (aa) allocated to the voter or proxy as stated in the copy of the register of electors, or
 - (bb) where an entry relating to the voter or proxy 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 referendum 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 or proxy’s identity, except as permitted by the voter or proxy.

(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 29 (votes marked by the 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 28 apply in the case of a voter or proxy who applies under paragraph (a) as they apply in the case of a voter or proxy who applies under rule 28(1), but as if—

- (a) references to delivering a ballot paper to a voter or proxy were to causing a voter’s or proxy’s vote to be marked on a ballot paper, and
- (b) in rule 28(1G), the reference to paragraph (1) of rule 28 were to paragraph (1) of this rule.”.

(10) In rule 30 (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 28 apply in the case of a voter or proxy who applies under paragraph (a) as they apply in the case of a voter or proxy who applies under rule 28(1), but as if—

- (a) references to delivering a ballot paper to a voter or proxy were to granting a voter’s or proxy’s application, and
- (b) in rule 28(1G), the reference to paragraph (1) of rule 28 were to paragraph (1) of this rule.”.

(11) In rule 31 (tendered ballot papers: circumstances where available), after paragraph (6) insert—

“(7) Paragraphs (1A) to (1M) of rule 28 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 or proxy who applies for a ballot paper under rule 28(1), but as if in rule 28(1G), the reference to making a further application under paragraph (1) of rule 28 were to seeking a further time to mark a tendered ballot paper under the paragraph of this rule under which a previous such attempt was made.”.

(12) After rule 32 (tendered ballot papers: general provisions) insert—

“Refusal to deliver ballot paper

32A.—(1) Where a presiding officer refuses to deliver a ballot paper to a voter who applied for one other than as a proxy, 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 or proxy under rule 28(1E), and
- (b) the voter or proxy makes a further application under rule 28(1).

(4) If a ballot paper is delivered to the voter or proxy following a further 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 or proxy, 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 or proxy is refused (or, in the case mentioned in paragraph (4), as soon as practicable after the delivery of a ballot paper to a voter or proxy).

(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 28(1G) and paragraph (9), a refusal to deliver a ballot paper to a voter or proxy is final and may not be questioned in any proceeding whatsoever.

(9) A refusal to deliver a ballot paper to a voter or proxy is subject to review on a referendum 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 26(3) or 28(1E), and
- (b) any reference to paragraph (1E) or (1G) of rule 28 includes a reference to that paragraph as applied by rule 29, 30 or 31.”.

- (13) In rule 36 (procedure on close of poll), in paragraph (1) after sub-paragraph (d) insert—
“(da) the ballot paper refusal list completed in accordance with rule 32A;”.
- (14) In rule 44 (sealing up of ballot papers), in paragraph (2) after sub-paragraph (a) insert—
“(aa) the completed ballot paper refusal list; or”.
- (15) In rule 45 (delivery of documents to relevant registration officer), in paragraph (1) after sub-paragraph (d) insert—
“(da) the packet containing the completed ballot paper refusal list;”.
- (16) In rule 46 (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 a referendum petition.”.
- (17) In Part 8 (appendix of forms)—
(a) in the list of forms, after the entry “Official Proxy Postal Poll Card (to be sent to an appointed proxy voting by post)” insert “Ballot Paper Refusal List”;
(b) for the form of the Official Poll Card (to be sent to a voter voting in person) substitute the corresponding form in Part 2 of Schedule 8;
(c) for the form of the Official Proxy Poll Card (to be sent to an appointed proxy voting in person) substitute the corresponding form in Part 2 of Schedule 8;
(d) after the form of the Official Proxy Postal Poll Card (to be sent to an appointed proxy voting by post) insert the ballot paper refusal list form as set out in Part 2 of Schedule 8;
(e) for the form of directions for the guidance of the voters and proxies in voting, substitute the corresponding form in Part 2 of Schedule 8.