

SCHEDULE 3

The Local Government Act Referendums Rules

PART 6

Counting of Votes

Attendance at counting of votes

35.—(1) The counting officer must make arrangements for counting the votes in the presence of the counting observers as soon as practicable after the close of the poll, and must give to the counting observers notice in writing of the time and place at which the counting officer will begin to count the votes.

(2) No person other than—

- (a) the counting officer and the counting officer's clerks,
- (b) the counting observers,
- (c) the elected mayor, if any, of the council in respect of which the referendum is held,
- (d) the petition organisers, and
- (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,

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

(3) A person not entitled to attend at the counting of the votes is not permitted to do so by the counting officer unless the counting officer is satisfied that the efficient counting of the votes will not be impeded.

(4) The counting officer must give the counting observers all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the counting officer can give them consistently with the orderly conduct of the proceedings and the discharge of the counting officer's duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the answer for which the vote is given and then counting the number of ballot papers for each answer, the counting observers are entitled to satisfy themselves that the ballot papers are correctly sorted.

The count

36.—(1) The counting officer must—

- (a) in the presence of the counting observers open each ballot box and count and record the number of ballot papers in it;
- (b) in the presence of the counting observers verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record the number counted.

(2) The counting officer must 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.

- (3) A postal ballot paper must not be taken to be duly returned unless—
- (a) it is returned in the manner set out in paragraph (4) and reaches the counting officer or any polling station in the voting area in question before the close of the poll;
 - (b) the postal voting statement, duly signed, is also returned in the manner set out in paragraph (4) and reaches the counting officer or such a polling station before that time;
 - (c) the postal voting statement also states the date of birth of a voter or proxy; and
 - (d) in a case where steps for verifying the date of birth and signature of a voter or proxy have been prescribed by regulations made under the 1983 Act ^{M1}, the counting officer (having taken such steps) verifies that date of birth and that signature.
- (4) The manner in which any postal ballot paper or postal voting statement may be returned—
- (a) to the counting officer, is by hand or by post;
 - (b) to a polling station, is by hand.
- (5) The counting officer must not count any tendered ballot paper.
- (6) The counting officer, while counting and recording the number of ballot papers and counting the votes, 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.
- (7) The counting officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by the counting officer, and the unused and spoilt ballot papers in the counting officer's 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 counting observer may copy.
- (8) The counting officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that the counting officer may exclude the hours between 7 in the evening and 9 on the following morning.
- (9) During the time so excluded the counting officer must—
- (a) place the ballot papers and other documents relating to the referendum under the counting officer's own seal; and
 - (b) otherwise take proper precautions for the security of the papers and documents.

Marginal Citations

M1 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](#).

Re-count

37.—(1) A petition organiser, if present when the counting or any re-count of the votes is completed, may require the counting officer to have the votes re-counted or again re-counted but the counting officer may refuse to do so if in the counting officer's opinion the request is unreasonable.

(2) No step must be taken on the completion of the counting or any re-count of votes until such petition organisers as are present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

38.—(1) Any ballot paper—

(a) which does not bear the official mark, or
(b) on which votes are given for more than one answer, or
(c) on which anything is written or marked by which the voter or proxy can be identified except the printed number and other unique identifying mark on the back, or
(d) which is unmarked or void for uncertainty,
subject to paragraph (2), is void and must not be 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,

is not for such reason to be deemed to be void if an intention that the vote is for one or the other of the answers clearly appears, and the way the paper is marked does not itself identify the voter or proxy and it is not shown that the voter or proxy can be identified by it.

(3) The counting officer must endorse the word “rejected” (“*gwrthodwyd*”) on any ballot paper which under this rule is not to be counted, and must add to the endorsement the words “rejection objected to” (“*gwrthwynebwyd ei wrthod*”) if any objection is made by a counting observer to the counting officer's decision.

(4) The counting officer must draw up a statement showing the number of ballot papers rejected under the several heads of—

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

Decisions on ballot papers

39. The decision of the counting officer on any question arising in respect of a ballot paper is to be final, but is subject to review on a referendum petition.

Equality of votes

40. Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between the answers the counting officer must forthwith decide the referendum by lot.

Changes to legislation:

There are currently no known outstanding effects for the The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, PART 6 .