

**ELECTIONS RULES**

This version is out of date

**Subsidiary  
1950.07.20-1**

Rules made under s.25.

**ELECTIONS RULES****(1950.07.20-1)****21.7.1950**

Amending enactments	Relevant current provisions	Commencement date
Rules of 7.9.1950	r. 3	
23.7.1953	r. 4	
20.8.1953	r. 27(2)	
14.6.1956	rr. 29, 42(1), (2) and (3)	
9.6.1964	rr. 9, 10(1), 45(1), (2) and (3)	
1.2.1968	r. 7(5) and Sch.	
19.6.1969	rr. 3, 4, 9(1), 15(2), 21(4), 30, 37(4), 42(1), (3) and (5), 44, 45(1), 46(4), 47 and 50 and Sch.	
Act. 1969-24	r. 32(3) and Sch.	
LN. 1980/005	rr. 2, 6(3), 27(1), 33, 38(1) and Sch.	
1983/068	rr. 2, 14(2), 16(2) and (3), 34 and 48	
1987/147	rr. 9(1), 34(1)	5.11.1987
2007/114	r. 44	20.9.2007

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## ELECTIONS RULES

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Subsidiary  
1950.07.20-1**Title.**

1. These Rules may be cited as the Elections Rules.

**PART I**  
PROVISIONS AS TO TIME

**Time-table.**

2. The proceedings at elections shall be conducted in accordance with the following table:

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election	Not later than the twenty-eighth day before the day of election.
Publication of notice inviting applications to be treated as a postal voter	No later than the twenty-eighth day before the day of election.
Delivery of nomination papers	Not later than noon on the twenty-first day before the day of election.
Despatch of notices of decisions on nomination and publication of statement as to persons nominated	Not later than the twentieth day before the day of election.
Delivery of notices of withdrawal of candidature	Not later than noon on the eighteenth day before the day of election.
Application to be treated as a postal voter	Not later than noon on the eighth day before the day of election.
Production of medical certificate to vote under rule 33	Not later than the sixth day before the day of the election.
Notice of poll	Not later than the fifth day before the day of election.
Notice of appointment of polling or counting agents	Not later than the third day before the day of election.
Publication of absentee list and list of postal voters	Not later than the second day before the day of election.
Appointment of observers under rule 33	Not later than the second day before the day of the election.
Polling	On the day of election.

**Computation of time.**

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3. For the purposes of rule 2, if the latest day by which an act or thing must be done be a Sunday or public holiday or the Saturday before or the Tuesday after Easter Sunday, such day shall be disregarded and the act or thing shall fall to be done not later than the day preceding, not being such an excluded day. The returning officer shall not be obliged to proceed with the counting of votes on any such excluded day but shall do so on the day next following, not being also an excluded day.

**Hours of poll.**

4. The poll shall commence at nine o'clock in the morning and be kept open till ten o'clock in the afternoon of the same day and no longer.

**PART II****STAGES COMMON TO CONTESTED AND  
UNCONTESTED ELECTIONS****Notice of election.**

5.(1) Notice of the election as in Form A in the Schedule, shall be prepared, signed and published by the returning officer.

(2) Such notice shall be published in one or more daily newspapers and in such other way (if any) as the returning officer thinks best calculated to bring it to the attention of the electors.

**Nomination of candidates.**

6.(1) Each candidate shall be nominated by a separate nomination paper as in Form B in the Schedule, delivered to the returning officer as hereinafter specified.

(2) The nomination paper shall state the full names, place of residence and description of the candidate and the surname shall be placed first in the list of his names.

(3) The description need not refer to his rank, profession or calling so long as, with other particulars of the candidate, it is sufficient to identify him.

(4) If the description is unduly long, the returning officer after consultation (if possible) with the candidate or his election agent, proposer or seconder, may shorten it or substitute another.

**Subscription of nomination paper.**

7.(1) The nomination paper shall be subscribed in the presence of the returning officer by two electors as proposer and seconder and by eight other electors as assenting to the nomination and shall be deemed to have been delivered to the returning officer when not less than the required number of persons have subscribed their names to it.

(2) The returning officer shall provide nomination papers and shall, at the request of any elector, prepare for signature a nomination paper.

(3) No person shall subscribe his name to more nomination papers than there are vacancies to be filled:

Provided that a person shall not be prevented from subscribing his name to a nomination paper by reason only of his having subscribed his name to that of a candidate who has died or withdrawn before delivery of the first-mentioned paper.

(4) If any person subscribes his name to nomination papers in contravention of the last foregoing paragraph, his signature shall be inoperative in all but those papers (up to the permitted number) which are first delivered.

(5) In this rule “elector” means a person who is registered as an elector in the register to be used at the election or who, pending the publication of that register, appears from the electors list therefor, as corrected by the registration officer, to be entitled to be so registered, but shall not include a person who although so registered or entitled to be registered has not yet acquired voting rights.

**Consent to nomination.**

8.(1) A person shall not be validly nominated unless his consent to nomination, given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers, and attested by one witness, is delivered at the place and within the time for the delivery of the nomination papers:

Provided that if the returning officer is satisfied that owing to absence from Gibraltar it has not been reasonably practicable for his consent in writing to be so given, a telegram consenting to his nomination and purporting to have been sent by him shall be deemed, for the purpose of this rule, to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(2) A candidate's consent under this rule shall contain a statement that he is qualified as required by law to be elected to and to hold the seat in question.

**Deposit required for elections.**

9.(1) A person shall not be validly nominated for an election unless the sum of £ 150 is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

(2) The deposit may be made either by the deposit of any legal tender, or by means of a banker's draft, or with the consent of the returning officer in any other manner:

Provided that the returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in Gibraltar.

**Decisions as to validity of nomination papers.**

10.(1) Where a nomination paper and the candidate's consent thereto are delivered and the deposit made in accordance with these rules, the candidate shall be deemed to stand nominated unless and until the returning officer decides that the nomination paper is invalid, or proof is given to the satisfaction of the returning officer of the candidate's death, or the candidate withdraws.

(2) The returning officer shall be entitled to hold a nomination paper invalid only on one of the following grounds, that is to say –

- (a) that the particulars of the candidate or persons subscribing the paper are not as required by law; or
- (b) that the paper is not subscribed as so required.

(3) As soon as practicable after the latest time for the delivery of nomination papers, the returning officer shall examine the nomination papers, and decide whether the candidates have been validly nominated in accordance with these Rules.

(4) Where the returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper such fact and the reasons for his decision.



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(5) The returning officer shall send notice of his decision to each candidate at his place of residence as stated in his nomination paper.

(6) The decision of the returning officer that a nomination paper is valid, shall be final and shall not be questioned in any proceedings other than proceedings on an election petition.

**Withdrawal of candidates.**

11.(1) A candidate may, not later than the time appointed for that purpose by the time-table, withdraw from his candidature by notice of withdrawal signed by him and attested by one witness and delivered at the place appointed for the delivery of nomination papers.

(2) In the case of a candidate who is absent from Gibraltar a notice of withdrawal signed by his proposer and accompanied by a telegram purporting to have been sent by the candidate announcing his withdrawal shall be of the same effect as a notice of withdrawal signed by the candidate.

**Publication of nominations.**

12. (1) The returning officer shall prepare and publish a statement as in Form C in the Schedule, showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their nomination papers.

(3) The statement shall show the persons standing nominated, arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) The statement as to persons nominated shall be published by causing it to be affixed to the place fixed for the delivery of the nomination papers.

**Method of election.**

13.(1) If the number of persons remaining validly nominated after any withdrawals under these rules exceeds the number of vacancies, the persons to fill such vacancies shall be elected from among them at a poll under Part III.

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(2) If the number does not exceed the number of vacancies, the person or persons (if any) so remaining validly nominated shall be deemed to be elected and shall be declared elected in accordance with Part IV.

### PART III CONTESTED ELECTIONS

#### *General Provisions.*

#### **Poll to be take by ballot.**

14.(1) The votes at the poll shall be given by ballot.

(2) Each elector shall record his vote only in the polling station for the polling place to which he is allotted in the register of electors, with the exception of postal voters and absentee voters.

#### **The ballot papers.**

15. (1) The ballot of every voter shall consist of a ballot paper and the persons remaining validly nominated after any withdrawals under these rules, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper in an election shall be as in Form D in the Schedule and shall be printed in accordance with the directions therein and—

- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back; and
- (d) shall have attached a counterfoil with the same number printed on the face.

(3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

#### **The official mark.**

16.(1) Every ballot paper shall be marked with an official mark, which shall be either embossed or perforated..

(2) The official mark on a postal ballot paper shall be a different mark from that embossed or perforated on the ballot papers issued to other voters.

(3) The official mark shall be kept secret.

*Action to be taken before the Poll*

**Notice of poll.**

17.(1) Notice of the poll shall be published by the returning officer and the manner of publication shall be the same as in the case of the notice of election.

- (2) Notice of the poll shall specify—
- (a) the day and hours fixed for the poll;
  - (b) the number of members to be elected;
  - (c) the particulars of each candidate remaining validly nominated (the order of the names of the candidates, and the particulars of the candidates, being the same as in the statement of persons nominated); and
  - (d) the situation of each polling station.

**Death of candidate.**

18.(1) If before the poll is commenced proof is given to the satisfaction of the returning officer—

- (a) that a person remaining validly nominated has died after the latest time for the delivery of nomination papers; or
- (b) that a person shown in the statement of persons nominated as standing nominated had in fact died before the latest time for delivery of the nomination papers,

the returning officer shall countermand the poll and shall forthwith notify the Deputy Governor for the information of the Governor and all proceedings with reference to the election shall be commenced afresh:

Provided that no fresh nominations shall be necessary in the case of a person shown in the previous statement of persons nominated as standing nominated.

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(2) Where by reason of the death of a candidate proceedings at an election are commenced afresh under this paragraph the day of election shall be fixed for the thirtieth day after the day on which the poll was countermanded and the time-table contained in rule 2 shall apply accordingly.

**Provision of polling stations.**

19.(1) The returning officer shall provide a polling station for each polling place indicated in the register of electors. One or more polling stations may be provided in the same room.

(2) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

**Appointment of presiding officer and clerks.**

20.(1) The returning officer shall appoint a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer or by the presiding officer to the returning officer.

(3) A presiding officer may, by the clerks appointed to assist him, do any act (including the asking of questions) which he is required or authorized by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

**Equipment of polling stations.**

21.(1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the returning officer may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked.

- (3) The returning officer shall provide each polling station with—
- (a) materials to enable voters to mark the ballot papers;
  - (b) instruments for marking thereon the official mark;
  - (c) copies of the register of electors or such part thereof as contains the names of the electors allotted to the station; and
  - (d) such other things as may be necessary for effectually conducting the election in the manner provided by these rules.

(4) A notice as in Form E in the Schedule, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited outside every polling station and in every compartment of every polling station.

**Appointment of polling and counting agents.**

22.(1) Each candidate may, before the commencement of the poll, appoint polling agents to attend at polling stations for the purpose of detecting personation and counting agents to attend at the counting of the votes:

Provided that —

- (a) every polling agent employed for payment on behalf of a candidate shall be appointed by the candidate's election agent;
- (b) the returning officer may limit the number of counting agents, so however that the number shall be the same in the case of each candidate, and the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates;
- (c) the appointment of an agent may be on behalf of more than one candidate; and
- (d) not more than one polling agent shall be appointed to attend on behalf of the same candidate at a polling station.

(2) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidates to the returning officer and shall be so given not later than the time appointed for that purpose by the timetable.

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(3) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(4) Counting agents may be appointed and notice of such appointment given by a candidate's election agent instead of by the candidate himself.

(5) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents whose appointments have been truly made and notified and who are within the permitted number.

(6) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorized to do, or may assist his agent in doing any such act or thing.

(7) No returning officer, presiding officer or clerk authorized to attend at a polling station or at the counting of votes or any partner or clerk of any such person shall act as a candidate's agent in the management or conduct of the election and should any such person so act, he is guilty of an offence:

Provided that nothing in this paragraph shall be taken as preventing a candidate from acting as his own election agent.

#### **Declaration of secrecy.**

23.(1) Before the opening of the poll a declaration of secrecy in Form F in the Schedule or in a form as near thereto as circumstances admit, shall be made by—

- (a) the returning officer ;
- (b) every presiding officer, clerk or police officer authorized to attend at a polling station or at the counting of the votes;
- (c) every candidate attending at a polling station or at the counting of the votes and every election agent so attending;
- (d) every candidate's wife or husband attending at the counting of the votes;
- (e) every polling agent or counting agent; and
- (f) every person permitted by the returning officer to attend at the counting of the votes though not specifically entitled so to do.

(2) Notwithstanding anything in the subrule (1) any person authorized to attend solely at the counting of the votes need not make the declaration before the opening of the poll but shall make it before he is permitted to attend the counting, and a person becoming obliged to make a declaration by reason of his appointment after the opening of the poll shall make the declaration before acting under the appointment.

(3) The returning officer shall make the declaration in the presence of a justice of the peace, the polling agents and police officers attending at a polling station shall make the declaration in the presence of either a justice of the peace, the returning officer or a presiding officer; and any other person shall make the declaration in the presence of either a justice of the peace or the returning officer.

(4) Before the declarant makes the declaration—

- (a) the person taking the declaration shall show to him a copy of section 48 of the Act; and
- (b) the declarant shall read that copy.

*The Poll*

**Admission to polling stations.**

24. The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time and shall exclude all other persons except—

- (a) the candidates and their election agents;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station ;
- (d) the police officers on duty; and
- (e) the companions of blind voters.

**Keeping of order in station.**

25.(1) It shall be the duty of the presiding officer to keep order at his polling station.

(2) If a person misconducts himself in a polling station or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a police officer in or near the station or by any other person authorized in writing by the returning officer to remove him, and the person so removed shall not, without the permission of the presiding officer, enter again the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a police officer for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

#### **Sealing of ballot boxes.**

26. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty, to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal on it in such manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

#### **Question to be put to voters.**

27.(1) The presiding officer may, and if so requested by a candidate or his election or polling agent shall, require any person applying for a ballot paper at the time of his application but not afterwards to produce his identity carnet issued under the Civilians (Registration) Act, or to produce other means of identification and may at the time of such application but not afterwards, require such person to answer the following questions, or either of them, that is to say –

- (a) Are you the person registered in the register of electors now in force as follows (*read the whole entry from the register*)?  
and
- (b) Have you already voted at the present election in this or any other place?

2. A ballot paper shall not be delivered to any person who fails to comply, to the satisfaction of the presiding officer, with any requirement of such officer under the preceding paragraph.



(3) Save as is by this rule authorized, no enquiry shall be permitted as to the right of any person to vote.

**Challenge of voter.**

28.(1) If at the time a person applies for a ballot paper or alter he has applied therefor and before he has left the polling station, a candidate or his election or polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed the offence of personation and undertakes to attempt to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the police officer so to do.

(2) A person against whom a declaration is made under this rule shall not, by reason thereof be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a police officer for an offence without a warrant.

**Voting Procedure.**

29.(1) A ballot paper shall be delivered to a voter who applies therefor, and immediately before delivery-

- (a) the ballot paper shall be marked with the official mark, either embossed or perforated;;
- (b) the number, name and description of the elector as stated in the copy of the register shall be called out;
- (c) the number of the elector shall be marked on the counterfoil; and
- (d) a mark shall be placed in the register against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal the vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark,

and put the ballot paper so folded up into the ballot box in the presence of the presiding officer.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put the ballot paper into the ballot box.

#### **Method of voting.**

30. Subject to the provisions of rule 42, a voter in recording his vote shall place a cross in the square opposite the name of each candidate for whom he wishes to vote.

#### **Notes marked by the presiding officer.**

31. (1) The presiding officer, on the application of –

- (a) a voter who is incapacitated by blindness or other physical cause from voting in manner directed by these rules; or
- (b) if the poll is taken on a Saturday, a voter who declares himself to be a Jew, and objects on religious grounds to voting in manner directed by these rules; or
- (c) a voter who declares orally that he is unable to read,

shall cause the vote of the voter to be marked on a ballot paper in manner directed by the voter and the ballot paper to be placed in the ballot box.

(2) The name and number in the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (hereinafter referred to as the list of votes marked by presiding officer”).

#### **Voting by blind persons.**

32.(1) If a voter makes an application to the presiding officer to be allowed on the ground of blindness to vote with the assistance of another person by whom he is accompanied (hereinafter referred to as “the companion”), the presiding officer shall require the voter to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer is satisfied that the voter is so incapacitated and is also satisfied by a written declaration made by the companion (hereinafter referred to as “the declaration made by the companion of a blind voter”) that the companion is a person qualified within the meaning of this

rule and has not previously assisted more than one blind person to vote at the election, the presiding officer shall grant the application, and thereupon anything which is by these rules required to be done to or by the voter in connection with the giving of his vote may be done with the assistance of the companion.

(3) For the purpose of this rule, a person shall be qualified to assist a blind voter to vote, if that person is either –

- (a) a person who is entitled to vote as an elector at the election; or
- (b) the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and has attained the age of eighteen years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (hereinafter referred to as “the list of blind voters assisted by companions”).

(5) The declaration made by the companion –

- (a) shall be as in Form G in the Schedule; and
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(6) No fee, stamp duty or other payment shall be charged in respect of the declaration.

**Absentee voting by incapacitated persons.**

33. (1) Notwithstanding any other provision of these rules, where not later than six days before the date of the election, an elector so requests and satisfies the returning officer with the production of a medical certificate by a duly qualified medical practitioner, that by reason of physical infirmity he will be unable to leave his place of abode to go to a polling station on the date of that election, that elector may in accordance with this rule, on the date of that election during the hours specified in rule 4, vote at his place of abode instead of voting at a polling station.

(2) In this rule place of abode includes any hospital, home, institution, or similar place where an elector for the time being resides as a patient.

(3) A request under this rule and the medical certificate in support of that request shall be in the form specified in Form H of the Schedule.

(4) No medical practitioner who is a candidate, an election agent, a polling agent, or a counting agent in the election, or the husband or wife of any such candidate, shall issue a medical certificate under this rule.

(5) The returning officer shall prepare, sign, publish, and make available, not later than two days before the date of the election and otherwise in the same manner as the register is to be published and made available under the Electors (Registration) Rules, a list of the name and number in the register of electors of every elector who is entitled to vote under this rule in that election (which list is in these rule referred to as “the absentee list”).

(6) The returning officer shall appoint one or more presiding officers and such clerks as may be necessary for the purposes of this rule.

(7) The returning officer shall also appoint two persons to accompany every presiding officer appointed under subrule (6) in the exercise of his functions under this rule, and one substitute for each person appointed under this paragraph (the persons so appointed and their substitutes being referred to in these rules as observers”). The observers shall be chosen unanimously by all the election agents appointed for the purposes of the election, but if those election agents cannot agree unanimously on any such appointment before the second day before the date of the election, the returning officer shall on that day appoint as that observer a person who is in his opinion impartial and otherwise a fit and proper person to be an observer. The returning officer shall thereupon notify every election agent of the name and address of that observer.

(8) Every ballot box that is to be provided under rule 21 to a presiding officer for the purpose of this rule shall, in addition to the requirements of that rule be so constructed that at all times other than when a voter on the absentee list is introducing his ballot paper to the ballot box, the aperture is covered so as to prevent other papers from being introduced and so as to be weatherproof.

(9) The returning officer—

- (a) shall provide to every presiding officer appointed for the purposes of this rule the things specified in rule 21(3); and

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- (b) shall provide to every presiding officer (including presiding officers at polling stations) and to every observer a copy of the absentee list.

(10) On the date of the election, immediately before the commencement of the poll, every presiding officer appointed for the purposes of this rule shall comply with the requirements of rule 26 at the office of the returning officer.

(11) On the date of the election, having complied with rule 26 and within the hours specified in rule 4, each presiding officer appointed for the purposes of this rule shall attend at the place of abode of every voter whose name appears on the absentee list or, where more than one presiding officer is so appointed, at the place of abode of such of those voters as the returning officer may allocate to him, in order to receive the vote of that voter or voters:

Provided that –

- (a) the returning officer shall ensure that one, but not more than one, presiding officer is available to receive the vote of every voter on the absentee list; and
- (b) the presiding officer shall not be obliged to remain to receive a vote where, on attending the place of abode of a voter on the absentee list, he is satisfied on reasonable grounds that the voter is not able to vote; and
- (c) the election shall not be invalid by reason of the inability of a presiding officer to attend at the place of abode of a voter on the absentee list within the time specified in rule 4.

(12) From the time that each presiding officer leaves the office of the returning officer to attend at the places of abode of voters on the absentee list until the time that he returns to the office of the returning officer –

- (a) he shall retain in his view and custody the ballot box provided to him;
- (b) he shall cause the aperture of the ballot box to be kept covered at all times except when the ballot paper of any such voter is being introduced; and
- (c) he shall be accompanied by his clerks, a police officer, and the two observers appointed in respect of him.

(13) No other person may accompany a presiding officer appointed for the purposes of this rule when he is attending at the place of abode of a voter on the absentee list or receiving such a vote:

Provided that the companion of any blind voter may be present in accordance with these rules when that voter votes.

(14) It shall be the function of every observer who accompanies a presiding officer under this rule to the places of abode of voters on the absentee list to observe that the requirements of these rules are complied with impartially, but no observer shall speak to such a voter concerning the exercise of that voter's right to vote. Every observer shall also make a declaration of secrecy in Form H in the Schedule.

(15) Subrules (2) and (3) of rule 29 shall not apply to a vote under this rule but every person voting under this rule shall be allowed to mark his ballot paper in secrecy, or with such secrecy as the circumstances reasonably permit, for the purposes of these rules, and shall then fold up the paper, show to the presiding officer the back of it so as to disclose the official mark, and put the ballot paper so folded into the ballot box in the presence of the presiding officer.

(16) Each presiding officer appointed for the purposes of this rule, with his clerks, police officer, and observers, shall proceed as expeditiously as possible in taking votes under this rule and shall thereafter return directly to the office of the returning officer where he shall comply with the requirements of rule 38 in the presence of the persons so accompanying him.

(17) Any polling agent may be present in the office of the returning officer when a presiding officer appointed for the purposes of this rule is complying with rule 38.

(18) No voter whose name appears on the absentee list published under subrule (5) may vote in the election otherwise than at his place of abode and under this rule.

(19) Except as otherwise provided in this rule, the other provisions of these rules relating to the functions, powers, and duties of the returning officer and of presiding officers and clerks, and to voting under these rules, shall apply to the returning officer and to presiding officers appointed for the purpose of this rule and to voting under this rule.

**Postal voters.**

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34. (1) Notwithstanding any other provision of these rules, an elector who, owing to his temporary absence from Gibraltar is unable or likely to be unable to go in person to the polling station on the day of the poll, may after publication of the prescribed notice apply to the returning officer to be registered in the list of postal voters.

(2) An elector whose application for registration is granted by the returning officer shall be entitled to vote by post in accordance with the provisions of the Postal Voting (Procedure) Rules.

**Tendered ballot papers.**

35.(1) If a person representing himself to be a particular elector named in the register applies for a ballot paper after another person has voted as such elector, the applicant shall, on satisfactorily answering the questions set out in rule 27, be entitled, subject to the following provisions of this rule, to mark a ballot paper (hereinafter referred to as “a tendered ballot paper”) in the same manner as any other voter.

- (2) A tendered ballot paper shall—
  - (a) be of a colour differing from the other ballot papers;
  - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet; and
  - (c) shall not be counted by the returning officer.
- (3) The name of the voter and his number in the register of electors shall be entered in a list (hereinafter referred to as the “tendered votes list”).

**Spoilt ballot papers.**

36. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in place of the ballot paper so delivered (hereinafter referred to as “a spoilt ballot paper”) and the spoilt ballot paper shall immediately be cancelled.

**Adjournment of poll in case of riot.**

37.(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall forthwith inform the returning officer who may adjourn the proceedings till the following day not being a Sunday or a public holiday.

- (2) Where the poll is adjourned at any polling station—
- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
  - (b) references in these rules to the close of the poll shall be construed accordingly.

**Procedure on close of poll.**

38.(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seal—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the marked copy of the register of electors;
- (e) the counterfoils of the used ballot papers; and
- (f) the tendered votes list, the absentee list, the list of blind voters assisted by companions, the list of votes marked by the presiding officer and the declarations made by the companions of blind voters,

and shall deliver the packets to the returning officer to be taken charge of by him.

(2) The packets shall be accompanied by a statement (hereinafter referred to as the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of—



- (a) ballot papers in the ballot box;
- (b) unused and spoiled ballot papers; and
- (c) tendered ballot papers.

*Counting of votes*

**Attendance at Counting of votes.**

39.(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 candidates 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 their wives or husbands;
  - (c) the election agent; and
  - (d) the counting agents,

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

(3) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with reference thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his functions in connection therewith.

**The count.**

40.(1) Before the returning officer proceeds to count the votes he shall in the presence of the counting agents open each ballot box and taking out the ballot papers therein shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes.

(2) The returning officer shall then in the presence of the counting agents verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoiled ballot papers in his possession and the tendered votes list (opening and re-sealing the packets

containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any counting agent may copy.

(3) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils of the used ballot papers.

(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 the official mark and the numbers printed on the back thereof.

(5) The returning officer shall, so far as practicable, proceed continuously with counting the votes allowing only time for refreshment:

Provided that he may, in so far as he and the candidates or their election agents shall agree, exclude the hours between ten o'clock in the evening and nine o'clock in the morning.

(6) During the excluded time the returning officer shall take proper precautions for the security of the ballot papers and other documents, and in particular shall 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 seal.

#### **Re-count.**

41.(1) A candidate or his election agent may if present, when the counting or re-counting of votes is completed, require the returning officer to have the votes re-counted:

Provided that the returning officer may refuse so to do if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of any count or re-count of votes until the candidates and the election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this rule.

#### **Rejected ballot papers.**

42.(1) Any ballot paper—

- (a) which does not bear the official mark; or

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- (b) on which votes are given for more candidates than those for whom the voter is entitled to vote; or
- (c) on which anything is written or marked by which the voter can be identified other than the printed number on the back; or
- (d) which is unmarked or void for uncertainty;

shall, subject to the provisions of this rule, be void and shall not be counted.

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any votes as to which no uncertainty arises and those votes shall be counted.

(3) Notwithstanding any of the provisions of this rule a ballot paper on which—

- (a) a vote is marked elsewhere than in the proper place; or
- (b) a vote is marked by more than one mark; or
- (c) a vote is marked otherwise than by means of a cross,

shall not, by reason thereof be deemed void (either wholly or as respects any vote) 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 of itself identify the voter and it is not clear that he can be identified thereby.

(4) The returning officer shall endorse—

- (a) the word “rejected” on any ballot paper which under this rule is not to be counted; and
- (b) in the case of a ballot paper on which any vote is counted under subrule (2), the words “rejected in part” and a memorandum specifying the votes counted; and

shall add to the endorsement the words “rejection objected to” if an objection is made to such decision by a counting agent.

(5) The returning officer shall draw up a statement showing the number of ballot papers rejected, including those rejected in part, under the several heads of—

- (a) want of official mark;

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- (b) voting for more candidates than the voter is entitled to;
- (c) writing or mark by which the voter could be identified;
- (d) unmarked or wholly void for uncertainty; or
- (e) rejected in part,

and any counting agent may copy such statement.

**Decisions on ballot papers.**

43. 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.

44. *Revoked.*

**PART IV****FINAL PROCEEDINGS IN CONTESTED AND  
UNCONTESTED ELECTIONS****Declaration of result.**

45.(1) In a contested election, when the result of the poll has been ascertained the returning officer shall forthwith declare to be elected the candidates for whom the majority of votes have been given, and shall as soon as possible publish in the Gazette, the name or names of the candidate or candidates elected and the total number of votes given for each candidate, whether elected or not.

(2) In an uncontested election the returning officer shall, as soon as he has given notice that no poll will be taken, publish the name or names of the person or persons elected.

**Return or forfeiture of deposit.**

46.(1) The deposit made under rule 9 shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except in the cases hereafter mentioned in this rule, the deposit shall be returned as soon as practicable after the result of the election is declared.

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(3) If the candidate is not shown as standing nominated in the statement of persons nominated, or if he dies before the commencement of the counting of votes, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(4) Subject to subrule (3), a candidate shall forfeit his deposit if he obtains less than one-third of the number of votes obtained by that candidate who, of all the candidates elected, has obtained the least number of votes.

**PART V**  
DISPOSAL OF DOCUMENTS

**Arrangement of ballot papers.**

47. On the completion of the counting at a contested election the returning officer shall seal up in separate packets—

- (a) the rejected ballot papers including ballot papers rejected in part; and
- (b) the counted ballot papers, and shall endorse on each packet a description of its contents and the date of the election to which they relate.

**Delivery of documents to the Registrar.**

48. The returning officer shall then forward to the Registrar of the Supreme Court the following documents—

- (a) the packets of ballot papers;
- (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 absentee list, the list of blind voters assisted by companions, the list of votes marked by the presiding officer and the declarations made by the companions of blind voters;
- (d) the packets of counterfoils of the used ballot papers;
- (e) the packets containing marked copies of registers;

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- (f) the applications for registration in the list of postal voters, the rejections of applications for registration and all packets sealed by the returning officer in accordance with the provisions of the Postal Voting (Procedure) Rule—

endorsing on each packet a description of its contents and the date of the election to which it relates.

**Orders for production of documents.**

49.(1) An order for—

- (a) the inspection or production of any rejected ballot papers, including ballot papers rejected in part; or
- (b) for the opening of the sealed packets of counterfoils or for the inspection of counted ballot papers,

may be made by the court, if the court is 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 an election petition.

(2) The order may be made subject to such conditions as to persons, time, place and mode of inspection, production or opening as the court may think expedient and may direct the Registrar of the Supreme Court to retain them intact for such period as may be specified in the order:

Provided that in making and carrying into effect any such order, 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 that his vote was given and that his vote has been declared by the court to be invalid.

(3) Any power given under this rule to the court may be exercised by the Chief Justice in chambers.

(4) The production of any document by the Registrar of the Supreme Court in accordance with an order made under this rule shall be conclusive evidence that the document relates to the election specified in the order, and 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 in the endorsement.

(5) The production from proper custody of a ballot paper purporting to have been used at any election, and of the counterfoil marked with the same

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printed number and having a number marked thereon in writing shall be prima facie evidence that the elector whose vote was given by the 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.

(6) Save as is by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the Registrar of the Supreme Court or to open any packets of counterfoils.

**Retention of documents.**

50. The Registrar of the Supreme Court shall retain until the next general election all documents relating to the last election, forwarded to him by the returning officer in pursuance of these rules and then, unless otherwise directed by an order made under the last foregoing rule, shall cause them to be destroyed.

**PART VI  
SUPPLEMENTAL**

**General duty of returning officer.**

51. It shall be the general duty of the returning officer to do any act or thing that may be necessary for effectually conducting the election under these rules.

**Powers and savings.**

52.(1) Any person before whom a declaration is authorized to be made under these rules may take such a declaration.

(2) Where by these rules any act or thing is required or authorized to be done in the presence of the candidates or their agents, the non-attendance of any such persons at the time and place appointed for the purpose, shall not if the act or thing is otherwise duly done, invalidate such act or thing.

(3) No misnomer or inaccurate description of any person or place named in any register of electors, nomination paper, ballot paper, or notice shall affect the full operation of that document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

(4) An election shall not be invalidated by non-compliance with the provisions of these rules, or mistake in the use of the prescribed forms if it

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appears to the court that the election was conducted in accordance with the principles laid down in these rules and that the non-compliance or mistake did not affect the result of the election.



**SCHEDULE**

*The forms contained in this Schedule may be adapted as far as circumstances require.*

**FORM A.**

**NOTICE OF ELECTION.**

Rule 5

**ELECTION OF MEMBERS OF THE GIBRALTAR PARLIAMENT**

1. An election is to be held of Members of the Parliament.
2. Nomination papers must be delivered at . . . . on any day after the date of this notice, but not later than noon on the . . . . day of. . . . .
3. Forms of nomination papers may be obtained from the returning officer at . . . . .The returning officer will at the request of any elector prepare for signature a nomination paper.
4. If the election is contested, the poll will take place on the. . . . . day of. . . . . 20 . . . . .

(Signed)  
Returning officer.

Note 1. The attention of candidates and electors is drawn to the rules for the filling up of nomination papers and other provisions relating to nomination contained in the Elections Rules.

Note 2. Every person guilty of a corrupt or illegal practice is on conviction liable to a fine or imprisonment or both.

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**FORM B.**

**NOMINATION PAPER.**

Rule 6

**ELECTION OF MEMBERS OF THE GIBRALTAR PARLIAMENT.**

Date of notice of election. . . . .

We, the undersigned, being electors, do hereby nominate the undermentioned person as a candidate for the said election.

Candidate's Surname	Other names in full	Place of residence	Description	Electoral Number (see note 3)

<p style="text-align: center;">Signature</p> <p>Proposer                  Secunder .....</p> <p>We the undersigned being electors do hereby assent to the foregoing nomination.</p> <p>1. ....                  2. ....                  3. ....                  4. ....                  5. ....                  6. ....                  7. ....                  8. ....</p>	<p style="text-align: center;">Electoral Number (see note 3)</p>
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- Note 1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the Elections Rules.
- Note 2. Where a candidate is commonly known by some title, he may be described by his title as if it were part of his surname.

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- Note 3. A person's electoral number is that appearing in respect of such person in the register to be used at the election.
- Note 4. An elector may not—
- (a) subscribe more nomination papers than there are vacancies to be filled; or
  - (b) subscribe more than one nomination paper in respect of the same candidate.
- Note 5. An elector shall not include a person who is registered as such in the register to be used for the election and who has not yet acquired voting rights.

FORM C.

Rule 12

STATEMENT AS TO PERSONS NOMINATED.

The following is a statement as to the persons nominated for election as Members to the Parliament.

Persons nominated				
Surname 1	Surname 2	Surname 3	Surname 4	Decision of returning officer that nomination paper is invalid, or other reason why a person nominated no longer stands nominated. 5

The persons opposite whose names no entry is made in column 5 have been and stand validly nominated.

Dated this . . . . . day of . . . . . 20. . . . .

Returning Officer.

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## FORM D.

Rule 15(2)

## BALLOT PAPER FOR GIBRALTAR PARLIAMENT ELECTIONS.

Form of front of Ballot Paper.

1	BROWN (JOHN Edward Brown of 52, Central Street, Description)	
2	BROWN (THOMAS William Brown of 136 Bristol Street, Description)	
3	JONES (WILLIAM David Jones of 17, Upper Avenue, Description)	
4	MAGRO (WILLIAM David Magro of 10 Tower Road, Description)	
5	MERTON (GEORGE Merton of 65, Lower Road, Description)	
6	SMITH (MARY Smith of 27 High, Street, Description)	
7	WILLIAMS (FRANCIS Williams of 999, Main Street, Description)	

Counterfoil  
No. (The  
counterfoil is  
to have a  
number to  
correspond  
with that on  
the back of the  
Ballot Paper)

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Form of back of Ballot Paper

No.

Elections of Members of the Parliament

..... day of. .... 20 .....

Note. The number on the ballot paper is to correspond with that on the counterfoil.

Directions as to printing ballot papers.

1. Nothing shall be printed on the back of the ballot paper except in accordance with these directions.
2. So far as practicable, the following arrangements shall be observed in the actual printing thereof:—
  - (a) no word shall be printed on the front thereof except the particulars of the candidates;
  - (b) no line shall be printed on the front thereof except the horizontal lines separating the particulars of the candidates and the vertical lines separating such particulars from the spaces where the vote is to be marked and the further vertical line separating such particulars from the numbers on the left-hand side; and
  - (c) the whole space between the horizontal line above the name of the first candidate and the horizontal line below the name of the last candidate shall be equally divided between the candidates by the lines separating their particulars.
3. In all cases, the surname of each candidate shall be printed by itself in large capitals, and his full particulars, set out immediately below, shall be printed in ordinary type, except that the first of his names other than his surname shall be printed in small capitals.
4. The number on the back of the ballot paper shall be printed in ordinary type.

**FORM E.**

Rule 21(4)

DIRECTIONS FOR THE GUIDANCE OF VOTERS.

1. The voter may vote for not more than. . . . . candidate(s).
2. The voter should see that the ballot paper is marked with the official mark before it is handed to him.
3. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross on the right-hand side of the ballot paper, opposite the name of each candidate for whom he votes.
4. The voter will then fold up the ballot paper so as to show the official mark on the back thereof, and leaving the compartment will, without showing the front of the paper to any person, show such official mark to the presiding officer, and will then, in the presence of the presiding officer, put the paper into the ballot box, and will forthwith leave the polling station.
5. If the voter inadvertently spoils a ballot paper he may return it to the officer, who will, if satisfied of such inadvertence, give him another paper.
6. If the voter votes for more than. . . . . candidate(s) or places any mark on the paper by which he may afterwards be identified, his ballot paper will be void, and it will not be counted.
7. A voter who fraudulently takes a ballot paper out of a polling station or fraudulently puts into the ballot box any paper other than the one given to him by the officer, is liable on conviction to imprisonment for six months and to a fine of £100.

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**FORM F.**

FORM OF DECLARATION OF SECRECY.

Rule 23

I solemnly promise and declare that I will not at this election do anything forbidden by section 48 of the Elections Act, which section I have read.

FORM G.

DECLARATION TO BE MADE BY THE COMPANION  
OF A BLIND VOTER

Rule 32(5)(a)

I, A. B, of . . . . . having been requested to assist C.D., who is numbered ..... on the register of electors, to record his vote at the election now being held, do hereby declare that . . . . .

(I am entitled to vote as an elector at the election)

or

I am the <sup>π</sup>. . . . . of the voter and have attained the age. . . . . of eighteen years)

and that I have not previously assisted any blind person (except E.F. of . . . . .) to vote at the said election.

(Signed) A.B.

. . . . . day of . . . . . 20. . . . .

I, the undersigned being the presiding officer for. . . . ., polling station under rule 33 do hereby certify that the above declaration, having been first read to the above-named declarant, was signed by him in my presence.

. . . . . day of. . . . . 20 , at . . . . . o'clock

(Signed) X.Y.  
minutes past  
(a.m.) (p.m.)

NOTE.- IF the person making the above declaration makes therein a statement false in a material particular, he will be guilty of an offence.

<sup>π</sup> State relationship to the voter



FORM H.

Rule 33(3)

APPLICATION TO VOTE AT PLACE OF ABODE AND MEDICAL  
CERTIFICATE IN SUPPORT.

To the Returning Officer, Gibraltar.

1. I, (full name), of (full postal address), being registered as an elector and numbered (registration number) on the register of electors hereby apply to vote under rule 33 of the Elections Rules at the general/bye-election on 20 .

2. My place of abode on the date of the election will be (specify place of abode).

3. The ground of my application is that I am unable by reason of physical infirmity to leave my place of abode to go to a polling station on that day.

4. Appended hereto is a medical certificate signed by a duly qualified medical practitioner in support of my application.

Dated this . . . . . day of. . . . . 20 .

In the presence of me

(Signature )  
(Name of witness)  
(Address of witness)

I, (*name of medical practitioner*) of (*address*), being a duly qualified medical practitioner, hereby certify that by reason of physical infirmity, the above named (*name of applicant*) will be unable to leave his/her place of abode to go to a polling station on (*date of election*).

Dated this . . . . . ay of. . . . . 20 .

(Signature)  
Medical Practitioner.