

Subsidiary Legislation made under s.25.

Postal Voting (Procedure) Rules

LN.1983/067

Commencement **1.8.1983**

Amending enactments	Relevant current provisions	Commencement date
LN. 1983/106	r. 12(1)-(2), Sch.	
1987/146	r. 5(1), (5), Sch.	5.11.1987
2019/022	r. 7(3)(a)	31.1.2019
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PART I.
PRELIMINARY PROVISIONS

Title.

1. These Rules may be cited as the Postal Voting (Procedure) Rules.

Interpretation.

2. In these Rules, unless the context otherwise requires—

“elector” means an elector entitled to vote pursuant to the provisions of the Act at elections of members of the Parliament;

“postal voter” means an elector entitled to vote by post at an election;

“returning officer” means an electoral officer;

“the register” means the register of electors.

PART II.
APPLICATIONS

List of Postal voters.

3. Subject to the provisions of these Rules, the returning officer shall prepare and publish a list of postal voters for every election.

Publication of notice inviting applications.

4. Not later than the twenty-eighth day before the day of election, the returning officer shall publish a notice in one or more newspapers, and in such other way (if any) as the returning officer thinks best calculated to bring it to the attention of electors, inviting applications from electors seeking registration as postal voters.

Application to be registered as a postal voter.

5. (1) The provisions of this Rule apply in relation to applications for registrations in the list of postal voters made in pursuance of the provisions of rule 34 of the Elections Rules.

(2) *Omitted.*

(3) The returning officer shall not grant or consider an application for registration otherwise than in accordance with the Act, the Elections Rules and these Rules.

(4) Every application to the returning officer under subrule (1) shall be made in writing in Form 1 in the Schedule.

(5) *Omitted.*

(6) The returning officer shall reject every application for registration received by him after 12 o'clock midday on the eighth day before the day of the poll.

(7) Where the returning officer rejects an application, he shall inform the applicant in writing of that fact and his reasons for doing so.

(8) If an applicant has dealt with his application form in such a manner that it cannot be considered for a determination, the returning officer shall reject the application and mark the form "Rejected". The returning officer shall issue another application form unless it could not be dealt with by the applicant and returned by him to the returning officer before 12 o'clock midday of the eighth day before the day of the poll.

(9) No appeal shall lie from any decision of the returning officer.

(10) Where the returning officer grants an application, he shall issue a ballot paper (hereinafter referred to as "a postal ballot paper") to the applicant in accordance with Part III of these Rules.

(11) The returning officer shall keep a list of postal voters and the addresses furnished by them as the addresses to which their ballot papers are to be sent. The list of postal voters shall be in such form as the returning officer may decide. The address to which a ballot paper is to be sent to a postal voter shall be placed opposite his name and address in the list of postal voters.

(12) As soon as the list of postal voters has been prepared, the returning officer shall publish it by making a copy thereof available for inspection at his office.

One election only.

6. An application for registration in the list of postal voters shall be for a particular election only.

PART III.
ISSUE OF POSTAL BALLOT PAPERS.

Issue of postal ballot papers.

7.(1) No person other than—

- (a) the returning officer and his staff,
- (b) the candidates, and
- (c) the election agent—

shall be present at the issue of postal ballot papers unless so permitted by the returning officer.

(2) The returning officer shall give each election agent not less than twelve hours' notice of the time and place at which he will make an issue of postal ballot papers.

- (3)
 - (a) Each postal ballot paper issued shall carry the same official mark as other ballot papers issued to other electors, and the name and number of the elector in the register shall be called out, and such number shall be marked on the counterfoil, and a mark shall be placed in the list of postal voters against the number of the elector to denote that a ballot paper has been issued to the elector but without showing the particular ballot paper issued.
 - (b) The number of a postal ballot paper shall be marked on the declaration of identity and ballot paper envelope sent with that paper.
 - (c) The declaration of identity shall be in the form specified in Form 2 in the Schedule.
 - (d) Where the returning officer is satisfied that two or more entries in the list of postal voters relate to the same elector, he shall not issue more than one ballot paper in respect of the same elector.
 - (e) The returning officer shall, in addition to the ballot paper, declaration of identity and envelope marked "B" for their return (hereinafter referred to as the "covering envelope"), send a smaller envelope marked "ballot paper envelope" bearing the number of the ballot paper and marked "A".
 - (f) Envelopes addressed to postal voters shall be counted and forthwith delivered by the returning officer to the Director of Postal Services who shall date and stamp with the post office seal a form of receipt to be presented to the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes by mail for delivery to the persons to whom they are addressed.

- (g) The returning officer, shall, at the proceedings on the issue of postal ballot papers, or first issue if more than one, provide a ballot box or ballot boxes marked "Postal Voters' Ballot Box for the reception of the covering envelopes when returned by the postal voters.
- (h) Every Postal Voters' Ballot Box shall be shown open and empty to the agents present and shall then be locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal.
- (i) The returning officer shall make provision for the safe custody of every Postal Voters' Ballot Box.
- (j) The returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents, shall make up in separate packets—
 - (i) the marked copy of the list of postal voters; and
 - (ii) the counterfoils of those postal ballot papers which were issued –and shall seal such packets.
- (k) The sealed packet containing the marked copy of the list of postal voters may be opened by the returning officer for the purposes of a subsequent issue, and on completion of that issue the copy shall be again made up and sealed in accordance with the last foregoing paragraph.

PART IV.

ACTION TO BE TAKEN BY POSTAL VOTER.

Mode of voting.

- 8.(1) Each postal voter shall receive –
 - (a) one postal ballot paper;
 - (b) one declaration of identity;
 - (c) one ballot paper envelope; and

- (d) one or two covering envelopes such as may be required.
- (2) The postal voter, on receipt of the documents shall—
- (a) sign the declaration of identity in the presence of a person known to him;
 - (b) secretly mark the postal ballot paper with a cross opposite the name of each candidate for whom he is voting;
 - (c) put the postal ballot paper in the ballot paper envelope and seal it;
 - (d) put the ballot paper envelope and the declaration of identity in the covering envelope and seal it; and
 - (e) return it to the returning officer to arrive before the close of the poll.
- (3) Where a postal voter is unable to complete the formalities and vote in accordance with the provisions of this Rule without the assistance of another person, the other person may do anything which is by these rules required to be done by the postal voter in connection with the giving of his vote but the assisting person shall not disclose the vote recorded.
- (4) Where a postal voter receives by mistake more than one postal ballot paper he shall return only one postal ballot paper to the returning officer.
- (5) Where a postal voter votes for more candidates than he is entitled so to do or places any sign or mark on the postal ballot paper by which he may be identified, the postal ballot paper shall be dealt with as a postal ballot paper in accordance with the provisions of rule 15.

PART V.

RECEIPT OF POSTAL BALLOT PAPERS.

Receipt of covering envelope.

9. The returning officer shall, immediately on receipt of a covering envelope before the close of the poll, place it unopened in the Postal Voters' Ballot Box locked and sealed in accordance with rule 7.

Receipt of Postal Votes in London Office.

10.(1) Where the address to which the ballot paper is to be sent is outside Gibraltar, one of the two covering envelopes shall bear the address of the Gibraltar Government London Office

and the other the address of the returning officer in Gibraltar to offer the postal voter a choice for the return of his postal ballot paper.

(2) On receipt of a covering envelope at the Gibraltar Government London Office it shall be placed unopened in a sealed Postal Voters' Ballot Box.

(3) Notwithstanding any other provision of these Rules, any covering envelope received at the Gibraltar Government London Office after 12 o'clock midday on the day before the election shall not be placed in the Postal Voters' Ballot Box and the postal ballot paper therein shall not be counted.

(4) Arrangements shall forthwith be made to convey the Postal Voters' Ballot Box at the Gibraltar Government London Office, by a person appointed by the returning officer for the purpose, to Gibraltar in time for the counting of votes.

Late Receipt of Envelopes by London Office.

11. When any covering envelopes are received by the Gibraltar Government London Office after 12 o'clock midday on the day before the election, they shall be put unopened into a separate packet, sealed up and forwarded to the returning officer who shall process them in accordance with the provisions of Rule 16.

Opening of Postal Voters' Ballot Boxes.

12.(1) Save to the extent provided in Rule 17, the Postal Voters' Ballot Boxes shall be opened by the returning officer in the presence of the election agents.

(2) So long as the returning officer ensures that there is at least one sealed Postal Voters' Ballot Box for the reception of covering envelopes up to the time of the close of the poll, the other Postal Voters' Ballot Boxes may previously be opened by him.

(3) The returning officer shall give to each election agent not less than 12 hours' notice in writing of each occasion on which a Postal Voters' Ballot Box is to be opened.

(4) Such a notice shall specify-

(a) the time and place at which such an opening is to take place; and

(b) the number of election agents that can attend each opening of a Postal Voters' Ballot Box.

Postal Ballot Paper Box.

13(1). The returning officer shall provide a separate box or boxes for the reception of postal ballot papers, once the covering envelope is opened in accordance with Rule 14 marked "Postal Ballot Paper Box".

(2) The Postal Ballot Paper Box shall be shown to the election agents present on the occasion of opening the first Postal Voters' Ballot Box as being empty.

(3) The returning officer shall then lock the Postal Ballot Paper Box and apply his seal in such a manner as to prevent it being opened without breaking the seal; and any of the election agents present who wish to add their seal may do likewise.

(4) The returning officer shall take proper precautions for the safe custody of every Postal Paper Ballot Box.

Opening of covering envelopes.

14.(1) When each Postal Voters' Ballot Box has been opened, the returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where a covering envelope does not contain both a declaration of identity and either a ballot paper envelope or, there being no ballot paper envelope, a ballot paper, the returning officer shall mark the covering envelope 'Rejected', attach thereto the contents (if any) of the covering envelope and place in the receptacle for votes rejected; and if the covering envelope does not contain the declaration of identity separately, the returning officer shall open the ballot paper envelope to ascertain if the declaration of identity is inside the ballot paper envelope. If so, the returning officer shall-

- (a) satisfy himself that the declaration of identity has been duly signed and authenticated and proceed as per subrule (5) of this Rule; and
- (b) if he is not so satisfied, he shall mark the declaration of identity 'Rejected', attach thereto the ballot paper envelope or, if there is no such envelope, the ballot paper, and place it in the receptacle for votes rejected.

(3) On opening a covering envelope, other than one to which subrule (2) applies, the returning officer shall satisfy himself that the declaration of identity has been duly signed and authenticated and, if he is not so satisfied, he shall mark the declaration of identity 'Rejected', attach thereto the ballot paper envelope or, if there is no such envelope, the ballot paper, and place it in the receptacle for votes rejected:

Provided that before so doing he shall show the declaration of identity to the election agents and if any objection is made by any election agent to his decision, he shall add the words 'Rejection objected to'.

(4) Where the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper envelope, the returning officer shall place the declaration of identity in the receptacle for declarations of identity and proceed to open the ballot paper envelope-

- (a) where the number on the ballot paper envelope agrees with the number on the ballot paper contained therein, he shall place the ballot paper in a Postal Ballot Paper Box; and
- (b) where the number on the ballot paper envelope does not agree with the number of the ballot paper contained therein, he shall mark the ballot paper 'Rejected' and attach the ballot paper envelope thereto.

(5) Where there is no ballot paper envelope or the ballot paper envelope has been opened under subrule (2) of this Rule, the returning officer shall where-

- (a) the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper, place the declaration of identity in the receptacle for declarations of identity and shall place the ballot paper in the Postal Ballot Paper Box;
- (b) the number on the declaration of identity does not agree with the number on the ballot paper, mark the declaration of identity 'Rejected', attach thereto the ballot paper and place it in the receptacle for votes rejected.

(6) Where the number on the declaration of identity duly signed and authenticated does not agree with the number on the ballot paper envelope or the ballot paper envelope has no number on it, he shall open the ballot paper envelope and shall where-

- (a) the number on the declaration of identity agrees with the number on the ballot paper, place the declaration of identity in the receptacle for declarations of identity and shall place the ballot paper in the Postal Ballot Paper Box;
- (b) the number on the declaration of identity does not agree with the number on the postal ballot paper or there is no postal ballot paper, mark the declaration of identity 'Rejected', attach thereto the postal ballot paper (if any) and place it in the receptacle for votes rejected.

- (7) On the conclusion of the proceedings, the returning officer shall-
- (a) seal the Postal Ballot Paper Boxes; and
 - (b) put the contents of the receptacle for votes rejected, the contents of the receptacle for declarations of identity, the ballot paper envelopes and the ballot papers marked 'Rejected' under the provisions of this Rule into separate packets and shall seal up such packets.

Spoilt postal ballot paper.

15.(1) Where a postal ballot paper has been dealt with in such manner that it cannot be used as a ballot paper, the spoilt postal ballot paper, the declaration of identity and ballot paper envelope shall be immediately cancelled.

(2) The returning officer, as soon as practicable after cancelling the said documents, shall make up the said documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as aforesaid the sealed packet shall be opened and the additional cancelled documents included therein and the packet shall thereupon be again made up and sealed.

(3) The sealed packets shall be forwarded to the Registrar of the Supreme Court by the returning officer.

Late envelopes.

16. When any covering envelopes are received by the returning officer after the close of the poll, the returning officer shall put them unopened into a separate envelope, seal up such packet and forward it to the Registrar of the Supreme Court, and if on any subsequent occasion covering envelopes are received as aforesaid, the sealed packet if not already sent shall be opened and the additional documents included therein and the packet shall thereupon be again made up and sealed.

Counting of Postal Ballot Papers.

- 17(1) As soon as possible after the closing of the poll, the returning officer shall ensure that:-
- (a) the Postal Ballot Paper Boxes; and
 - (b) the separate packets referred to in subrule 14(7)(b) of these Rules; and
 - (c) the Postal Voters' Ballot Boxes remaining unopened;

are conveyed to the count.

(2) The Postal Voters' Ballot Boxes remaining unopened and the Postal Ballot Paper Boxes shall be opened at the counting of the votes.

(3) The Postal Voters' Ballot Boxes remaining unopened shall be opened by the returning officer in the presence of the counting agents at the counting of the votes and the returning officer shall thereafter proceed as set out in Rule 14 of these Rules save to the extent of having to re-seal the Postal Ballot Paper Boxes as required by Rule 14(7) of these Rules.

(4) Once the contents of the unopened Postal Voters' Ballot Boxes have been processed in accordance with the preceding sub-rule the returning officer shall open the Postal Ballot Paper Boxes in the presence of the counting agents and proceed with the counting of the votes to such an extent as is applicable in the manner prescribed by Rule 40 of the Elections Rules."

PART VI.
MISCELLANEOUS.

Abandoned poll.

18.(1) Where a poll is abandoned or countermanded after postal ballot papers have been issued, the returning officer shall make up the covering envelopes and their contents in a packet and shall seal the packet and shall then forward the packet to the Registrar of the Supreme Court.

(2) Where any covering envelopes are received by the returning officer after the poll has been abandoned or countermanded, the returning officer shall put them unopened into a separate envelope, seal up such packet and forward it to the Registrar of the Supreme Court, and if on any subsequent occasion covering envelopes are received as aforesaid the sealed packet, if not already sent, shall be opened and the additional documents included therein and the packet shall thereupon again be made up and sealed.

Declaration of secrecy.

19.(1) Every person attending the proceedings on the issue of postal ballot papers shall make a declaration of secrecy in the form in subrule (2) before the issue of postal ballot papers.

(2) The declaration shall be as follows—

"I solemnly promise and declare that I will not do anything forbidden by the Parliament Act or related subsidiary legislation and shall not, except for some purpose authorized by law,

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communicate to any person any information obtained at the proceedings on the issue of postal ballot papers”.

Voting only by post.

20. No elector who is registered in the list of postal voters shall vote in an election otherwise than by post and pursuant to the provisions of these Rules.

Reference to Election Rules.

21. Except as otherwise provided in these Rules, the provisions of the Elections Rules shall apply.

SCHEDULE.

Rule 5(4).

FORM 1.

GIBRALTAR PARLIAMENT ACT.

APPLICATION TO BE REGISTERED AS A POSTAL VOTER AT ELECTION ON.....

(Please complete in BLOCK LETTERS)

I, (full name) of (full postal address in Gibraltar) being registered as an elector with electoral registration number * in the register of electors hereby apply to be treated as a postal voter at the election.

Address to which ballot paper is to be sent.

.....

.....

Name and address of relative resident in Gibraltar who may be contacted if further details are required.

Name.

Address.

Telephone number (if any).

Relationship to applicant.

Signature Date

* Electoral registration number to be inserted in the case of persons making their application in Gibraltar.

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FORM 2.

Rule 7(3)(c)

GIBRALTAR PARLIAMENT ACT.

(Front of Form).

FORM OF DECLARATION OF IDENTITY.

Parliament Act.

Ballot Paper No.

I (Full name in BLOCK LETTERS) hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature.

The voter, who is personally known to me, has signed (or marked) this declaration in my presence.

Witness's signature

(See instructions on the back of this Form).

(Back of Form).

INSTRUCTIONS TO THE VOTER.

1. You must sign the declaration of identity in the presence of a person known to you.
2. You may vote for not more than candidate(s).
3. Place a cross (x) on the right-hand side of the ballot paper opposite the name of each candidate for whom you vote. Do this secretly: if you cannot vote without assistance, the person assisting you must not disclose how you voted.
4. Put the ballot paper in the small envelope marked 'A' and seal it. Then put the envelope marked 'A', together with this declaration of identity, in the larger envelope marked 'B'.

Return it without delay. The ballot paper, in order to be counted, must be received by the returning officer not later than the close of the poll which is 10pm on.

5. If you receive more than one ballot paper, remember that it is illegal to vote more than once at the same election.

6. At this election you cannot vote in person at the polling station.

7. If you vote for more than candidate(s) or place any mark on the ballot paper by which you may afterwards be identified, your ballot paper will be void and it will not be counted.