

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5088 GIBRALTAR Wednesday 13th September 2023

LEGAL NOTICE NO. 268 OF 2023

PARLIAMENT ACT

POSTAL VOTING (PROCEDURE) (AMENDMENT) RULES 2023

In exercise of the powers conferred on him by section 25(1) of the Parliament Act, and all other enabling powers, the Minister has made the following Rules—

Title.

1. These Rules may be cited as the Postal Voting (Procedure) (Amendment) Rules 2023.

Commencement.

2. These Rules come into operation on the day of publication.

Amendment of the Postal Voting (Procedure) Rules.

- 3.(1) The Postal Voting (Procedure) Rules are amended in accordance with the provisions of this Rule.

(2) The definition of the word "elector" that appears in Rule 2 is amended by the deletion of the word "persuant" and its substitution with the word "pursuant".

(3) Rule 5(4) is amended by the deletion of the Roman numeral "I" that appears therein and its substitution with the figure "1".

(4) Rule 7(3)(a) is amended by the deletion of the words "be stamped with an official mark" which appear therein and the insertion in substitution thereof of the words "carry the same official mark as other ballot papers issued to other electors".

(5) Rule 7(3)(c) is amended by the deletion of the Roman numeral "III" and its substitution with the figure "2".

(6) Rule 7(3)(f) is amended by-

- (a) the insertion of the words "date and" immediately before the word "stamp" which appears therein;
- (b) the deletion of the word "date" that appears therein immediately after the words "post office" and its substitution with the word "seal"; and

- (c) the deletion of the words “express registered” that appear therein.
- (7) Rule 7(3)(g) is amended by the insertion of the words “marked “Postal Voters’ Ballot Box” immediately after the words “ballot boxes”.
- (8) Rule 7(3)(h) is amended by the deletion of the words “such ballot box” which appear therein and their substitution with the words “Postal Voters’ Ballot Box”.
- (9) Rule 7(3)(i) is deleted in its entirety.
- (10) Rule 7(3)(j) is re-numbered as Rule 7(3)(i) and the words “such ballot box” which appear therein deleted and substituted with the words “Postal Voters’ Ballot Box”.
- (11) Rules 7(3)(k) and (l) are re-numbered 7(3)(j) and (k) respectively.
- (12) Rule 8(1)(d) is amended by the deletion of the words "one covering envelope" that appear therein and the insertion in substitution thereof of the words "one or two covering envelopes such as may be required".
- (13) Rule 8(5) is amended by the deletion of the figure "13" that appears therein and its substitution with the figure "15".
- (14) Rule 9 is amended by deleting the words “postal voters’ ballot box” which appear therein and substituting them with the words “Postal Voters’ Ballot Box”.
- (15) The currently numbered Rules 10 to 12 are deleted in their entirety and substituted with the following new Rules -

“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."

(16) The currently numbered Rules 13 and 14 inclusive are re-numbered 15 and 16 respectively.

(17) The following new Rule shall be inserted immediately after Rule 16 -

“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."

(18) The currently numbered Rules 15 to 18 inclusive are re-numbered 18 and 21 respectively.

(19) Form I of the Schedule to the Rules is amended by the deletion of the words "because I am unable on polling day to go in person to the polling station allotted to me owing to my temporary absence from Gibraltar" that appear therein.

(20) The Schedule to the Rules is further amended by renumbering "Form I" as "Form 1".

(21) The Schedule to the Rules is further amended by renumbering "Form III" as "Form 2".

Dated: 13th September 2023.

F R PICARDO,
Minister with responsibility for Elections.

EXPLANATORY MEMORANDUM

The purpose of these rules is to remove the requirements for a person to have to be outside Gibraltar for the purpose of postal voting and to amend the procedure for the verification of postal votes and the opening of the Postal Voters' Ballot Box.