

Subsidiary Legislation made under s.25.

Proxy Voting (Procedure) Rules 2019

LN.2019/023

Commencement

31.1.2019

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1950-15

Parliament

2019/023

Proxy Voting (Procedure) Rules 2019

THE THIRD SCHEDULE
Emergency Application to Vote by Proxy

Title.

1. These Rules may be cited as the Proxy Voting (Procedure) Rules 2019.

Commencement.

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

Interpretation.

3. In these Rules, unless the context otherwise requires-

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

“the proxy list” means the list kept by the returning officer pursuant to rule 33A(7) of the Elections Rules;

“Absent Voter” means an elector who is entitled to vote by proxy;

“proxy voter” means a person voting as proxy;

“returning officer” means an electoral officer;

“the register” means the register of electors.

PART II

APPLICATIONS

The Proxy List.

4. Subject to and in accordance with the provisions of rule 33A of the Elections Rules and the provisions of these Rules, the returning officer shall prepare and publish a proxy list for every election.

Publication of Notice Inviting Applications.

5. Not later than noon on the twenty-eighth day before the day of the election, the returning officer shall publish a notice in one or more newspapers, and in such other way as the returning officer thinks best calculated to bring it to the attention of voters, inviting applications from electors wishing to vote by proxy.

Application to be Registered as a Proxy Voter.

6.(1) The provisions of this rule apply in relation to applications to the returning officer to vote by proxy made in pursuance of the provisions of rule 33A of the Elections Rules.

(2) The returning officer shall not grant or consider an application to vote by proxy which is not made in accordance with the Parliament Act, the Elections Rules and these Rules.

(3) Every application to the returning officer under sub-rule (1) shall be made in writing in accordance with Form I of the Elections Rules.

(4) Subject to sub-rule 6(5) the returning officer shall reject every application for voting by proxy received by him after noon on the sixth day before the day of the election.

(5) The returning officer may in circumstances where an elector satisfies him that by reason of an unforeseen or unforeseeable emergency which has arisen after noon on the sixth day before the day of the election the elector will be unable to vote in person at the polling station allotted to him or her consider an application by that elector to vote by proxy. No such application shall be considered or granted by the returning officer if received by him after 5 pm on the day of the election.

(6) Where the returning officer rejects or disregards an application, he shall as soon as reasonably possible inform the applicant in writing of that fact and his reasons for doing so.

(7) 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 to the applicant unless it could not be dealt with by the applicant and returned to him by the deadline specified in either sub-rule 6(4) or 6(5) as the case may be.

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

(9) The returning officer shall in accordance with the provisions of rule 33A(7) of the Elections Rules prepare and publish a list of Absent Voters and their corresponding proxy voters and addresses. The proxy list shall be in such form as the returning officer may decide and he shall publish it by making a copy of it available for inspection at his office.

One election only.

7. An application to be entitled to vote by way of proxy shall be for a particular election only.

PART III

PROXY'S

8.(1) Subject to the provisions of sub-rule 8(3) any person is capable of being appointed under these Rules to vote as proxy for another ("the Absent Voter") in the election.

(2) The Absent Voter cannot have more than one person at a time appointed as proxy to vote for him or her at the election.

(3) A person is capable of being appointed to vote as proxy if-

- (a) he or she is or will have attained the age of eighteen (18) years as at the date of the election;
- (b) he or she is the spouse or civil partner or parent or grandparent or brother or sister or child or grandchild of the Absent Voter or the person nominated in the application form by the Absent Voter;
- (c) he or she is eligible to vote in the election in his or her own right and is entered in the register; and
- (d) he or she is not subject to any legal incapacity (age apart) to vote in the election in his or her own right.

(4) Where the Absent Voter applies to the returning officer for the appointment of a proxy, the returning officer must make the appointment if the application meets the requirements prescribed by the Elections Rules and these Rules and the returning officer is satisfied the Absent Voter has met the requirements of rule 33A (3) of the Elections Rules and that the proxy is capable of being, and willing to be, appointed.

(5) The appointment of a proxy is to be made by means of a proxy paper, in the form set out in the First Schedule hereto, issued by the returning officer.

(6) An appointment made in accordance with the provisions of sub-rule 8(4) may be cancelled by the Absent Voter giving written notice to the returning officer and also ceases to be in force on the issue of a proxy paper appointing a different person to vote for the Absent Voter in the election. A notice cancelling a proxy's appointment shall be disregarded for the purposes of the election if it is received by the returning officer after 5 pm on the second day before the election.

9.(1) Subject to the provisions of sub-rule 8(6), where a proxy appointment under rule 8 is in force, the person appointed is entitled to vote as proxy for the Absent Voter.

(2) A proxy voter is not entitled to vote as proxy in the election on behalf of more than two Absent Voters.

(3) A person entitled to vote as proxy for an Absent Voter shall do so in person at the polling station allotted to the Absent Voter upon presentation of the requisite Proxy Poll Card.

Forms.

10.(1) The returning officer shall supply free of charge as many forms for use in connection with applications made under rule 33A (6) of the Elections Rules as appear to the returning officer to be reasonable in the circumstances to any person who satisfies that officer of his or her intention to use the forms in connection with the election.

- (2) An application to be entitled to vote by proxy must state-
- (a) the full name and date of birth of the applicant;
 - (b) the address in respect of which the applicant is registered or has applied to be registered in the register;
 - (c) the full name, date of birth and address of the proxy together with his or her family relationship, with the applicant;
 - (d) the grounds on which the applicant claims to be unable to vote in person at the polling station allotted to him or her and thereby entitled to an absent vote;
 - (e) the signature of the applicant, or, in the case of a person who is unable to provide a signature, the reasons for his or her request for a waiver of the requirement to provide a signature and the name and address of the person who has assisted him or her to complete his or her application form;
 - (f) if it is signed only by the applicant, it must contain a statement by him or her that he or she has consulted the person to be appointed as proxy and that that person is capable and willing to be appointed to vote as his or her proxy or if it is also signed by the person to be appointed it shall contain a statement by that person that he or she is capable of being and is willing to be appointed to vote as the applicant's proxy.
- (3) The application must be in writing and must be dated.
- (4) The names, signatures and dates of birth contained in an application must be set out in a clear and unambiguous manner.

- (5) The returning officer may satisfy himself-
- (a) that an application meets the requirements that it is signed by the applicant and states his or her date of birth by referring to any signature and date of birth previously provided by the applicant to the Government of Gibraltar which the returning officer is authorised to inspect for the purposes of his registration duties; and
 - (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write.

Additional Requirements for an Application for an Emergency Proxy Vote.

11. Where an application is made by an applicant to vote by way of proxy after noon on the sixth day before the election and before 5 pm on the day of the election and is made-

- (a) on grounds relating to the applicants occupation, service or employment; or
- (b) on medical grounds,

the requirements of either rules 12 or 13 as applicable as to matters to be specified and the attestation to be provided shall apply and the form prescribed in the Third Schedule shall be completed and handed in to the returning officer.

12. Where an application is made under sub-rule 6(5) on medical grounds the application shall specify the medical disability which prevents the elector from being unable or unlikely to vote in person and must be supported by an attestation from a person registered under the Medical and Health Act 1997 which must state-

- (a) the name of the person attesting the application;
- (b) his profession and position;
- (c) that he is a person acquainted with the applicant and their medical condition;
- (d) the medical condition suffered by the applicant and why their condition prevents them from voting in person; and
- (e) that he is a person authorised to make the attestation.

13.(1) Where an application is made under rule 6(5) on grounds relating to the applicant's occupation, service or employment the application shall state-

- (a) where the applicant is self-employed, that fact; and in any other case, the name of the applicant's employer;
 - (b) that the reason why the applicant will be unable or unlikely to be able to vote in person relates to the applicant's occupation, service or employment; and
 - (c) the date on which the applicant became aware of that reason.
- (2) The application made under sub-rule (1) must be attested and signed-
- (a) where the applicant is self-employed, by a person who-
 - (i) is aged 18 years or over;
 - (ii) knows the applicant; and
 - (iii) is not related to the applicant;
 - (b) where the applicant is not self-employed, by the applicant's employer or by another employee to whom this function is delegated by the employer.

The person attesting the application must certify that the statements and information attested to are true to the best of their knowledge and belief.

Grant or Refusal of Applications.

14.(1) Where the returning officer grants an application for the appointment of a proxy he shall issue-

- (a) the elector with a proxy paper in the form set out in the First Schedule hereto; and
- (b) the appointed proxy with a Proxy Poll Card in the form set out in the Second Schedule hereto.

(2) Where the returning officer refuses an application or disregards an application made he shall notify the applicant of his decision in accordance with the provisions of sub-rule 6(6).

Cancellation of Proxy Appointment.

15. Where the appointment of a proxy is cancelled by notice given to the returning officer under rule 8(6) or ceases to be in force under that provision, the returning officer shall-

- (a) notify the person whose appointment as proxy has been cancelled or expired unless the returning officer has previously been notified by that person that he or she no longer wishes to act as proxy; and
- (b) remove his or her name from the proxy list.

Offences

16.(1) If a person-

- (a) in any declaration or form used for any of the purposes of these Rules, makes a statement knowing it to be false; or
- (b) provides false information in connection with an application made for the purposes of these Rules,

that person commits an offence.

(2) In relation to a signature, “false information” for the purposes of sub-rule 16 (1) (b), means a signature which-

- (a) is not the usual signature of; or
- (b) was written by a person other than;

the person whose signature it purports to be.

(3) A person guilty of an offence under sub-rule (1) is liable to a fine not exceeding level 5 on the standard scale.

**FIRST SCHEDULE
FORM OF PROXY PAPER**

PROXY PAPER	
ELECTION OF MEMBERS OF THE GIBRALTAR PARLIAMENT	
DATE OF NOTICE OF ELECTION	
POLLING STATION:	
NAME OF PROXY	
ADDRESS OF PROXY	
<p>You have been appointed as proxy for _____ (name of elector) who is registered at _____ to vote for him/her in the above-mentioned election.</p> <p>Signature _____ (Returning Officer)</p> <p>Date: _____</p>	

1. This proxy gives you the right to vote as proxy for the elector named above.
2. You may not vote as proxy in the election for more than 2 electors.
3. You must vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. Please take the poll card with you to vote as you cannot vote without it.

4. If you cannot vote in person at the polling station, please contact the returning officer at [*insert telephone no. or email*].

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SECOND SCHEDULE

PROXY POLL CARD

PROXY POLL CARD		YOUR DETAILS	
ELECTION OF MEMBERS OF THE GIBRALTAR PARLIAMENT		PROXY'S NAME:	
POLLING STATION:		PROXY'S ADDRESS:	
DATE OF ELECTION:			

VOTING INFORMATION		YOU WILL RECEIVE A PROXY VOTE	
POLLING DAY		The person named at the back of this card has appointed you as proxy to vote on their behalf at this election. You do need to take this card with you to vote as you cannot vote without it.	
VOTING HOURS			
YOUR POLLING STATION WILL BE			

PLEASE TURN OVER

Back of Card

FOR THIS ELECTION YOU ARE
PROXY FOR

ELECTOR'S NAME:

ELECTOR'S ADDRESS:

ELECTOR'S NUMBER ON
REGISTER:

The person you are proxy for can vote themselves if they wish BUT only if you have not already voted on their behalf.

If you need assistance please contact us at

Telephone N^o: [*telephone number*]

Email: [*email*]

HOW TO VOTE AS PROXY

1. At the polling station, tell the staff that you are the proxy for the person named above. They will give you that person's ballot paper.
2. Go to one of the voting booths.
3. Follow the instructions on how to mark the ballot paper.

IT IS AN OFFENCE TO:

- vote more than once at this election unless you are voting on your own behalf and as a proxy for another person ;
- vote as a proxy at this election for more than 2 people;
- vote as a proxy for someone if you know that by law they are not allowed to vote;

The returning officer issued this card. If undelivered return this card to: [*insert address*]

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4. Fold the ballot paper and put it in the ballot box.

IF YOU NEED ANY HELP, JUST
ASK THE STAFF

THE THIRD SCHEDULE

Emergency Application to Vote by Proxy

GENERAL ELECTION [year] Emergency application to vote by Proxy at Election [date]
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Please write in BLACK INK and use BLOCK CAPITALS. Please read the notes before completing this form.

1 Your name	
First names in full:	
Surname:	
Date of Birth:	

2 Address where you are registered to vote	3 Your Declaration As far as I know, the details on this form are true and accurate. I have asked the person named below who is willing and able to vote for me as proxy.
	Signature <div style="border: 1px solid black; width: 150px; height: 40px; margin: 5px auto;"></div>

4 Name of proxy	
5 Address of proxy	

6 Declaration of proxy I am capable and willing to be appointed to vote as the applicant's proxy.			
Proxy's signature:		Date:	

7 Proxy Details Please complete your proxy's details as fully as possible.	
Name:	
Address:	
Proxy's relationship to you (if any):	

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Support for this application by medical practitioner / employer	
To be completed by the Supporter as fully as possible. Please state if self-employed.	
Name of Supporter:	
Address of Supporter:	
Qualification of support:	
Date of elector's incapacity/circumstances preventing voting:	
Supporter's declaration – Please delete as appropriate	
<ul style="list-style-type: none"> • I am properly qualified to support this application. • I am treating the applicant for the physical incapacity, or the person is receiving care from me in respect of the physical incapacity. • The person cannot reasonably be expected to go in person to the allotted polling station or to vote unaided there by reason of that incapacity. • The information is true to the best of my knowledge and belief and the person's physical incapacity occurred on the date I entered in section 4. • I am the employer of the person. • I am self-employed. 	
Supporter's Signature:	
Date:	
Please return this form to:	
Returning Officer for Gibraltar, The Gibraltar Parliament, 156 Main Street, Gibraltar Helpline: [telephone no.]; Email: [email]	

Notes

This application must only be used if you become physically incapacitated or will be absent in relation to occupation, employment or service, and are applying not later than 10am on *Friday of election*.

- Section 1 Your first name(s) and surname.
- Section 1 Your date of birth – if not completed, an absence vote cannot be granted.
- Section 2 Your address on the Register of Electors.
- Section 3 You must sign and date this section otherwise your application will be rejected.
- Section 4 Give the details of your physical incapacity or the circumstances which prevent you from voting in person. Your proxy may sign this section but the proxy application can be returned without.
- Section 5 Name and address of your appointed proxy, along with your family relationship to your proxy, if applicable.
- Section 7 To be completed by:
 - a registered medical practitioner if you are in a residential home or sheltered housing, the main, home care centre or wardens may support your application. For occupation, service or employment reported by your employer (or delegated employer, if self-employed) by someone who knows but is not related to you.
 - The employer of the person, in the case of self-employed, this should be stated.
- Section 8 Your supporter must sign and date this section otherwise the application will be rejected.
 - + Your Proxy must be eligible to vote in the General Election.
 - + A person may not act as proxy for more than two electors.

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