P251 ALTERNATIVE LEGAL TEXT

SECTION B: THE PANEL (Version 16)

Amend paragraph 2.7.1 as follows:

2.7.1 Subject to paragraph 2.8.2, a person appointed or re-appointed by a notice under paragraph 2.3, 2.4, 2.5 or 2.6 shall be appointed as a Panel Member with effect from:

(~~i~~a) the day following the next retirement day (as defined in paragraph 2.7.3), or

(~~ii~~b) if earlier, the date with effect from which an existing relevant Panel Member ceases to hold office pursuant to paragraph 2.7.4(b), (c) or (d), or

(~~iii~~c) where at the time at which the notice is given the office of a relevant Panel Member is vacant, the later of the date specified in the notice and the date when the notice is given;

for the purposes of which a "relevant" Panel Member is a Panel Member appointed under paragraph 2.3, 2.4, 2.5 or 2.6 respectively.

Amend paragraph 2.7.4 as follows:

2.7.4 A person shall cease to hold office as a Panel Member:

(a) upon expiry of his term of office, unless he is re-appointed;

(b) if:

(i) he resigns his office by notice delivered to the Panel Secretary;

(ii) he becomes bankrupt or makes any arrangement or composition with his creditors generally;

(iii) he is or may be suffering from mental disorder and either he is admitted to hospital in pursuance of an application under the Mental Health Act 1983 or an order is made by a court having jurisdiction in matters concerning mental disorder for his detention or for the appointment of a receiver, curator bonis or other person with respect to his property or affairs;

(iv) he becomes prohibited by law from being a director of a company under the Companies Act ~~1985~~2006;

(v) he dies;

(vi) he is convicted of an indictable offence;

(c) if he is removed from office in accordance with any provision of this paragraph 2; or

(d) if the Panel resolves (and the Authority does not veto such resolution by notice in writing to the Panel Secretary) that he should cease to hold office on grounds of his serious misconduct.

ANNEX B-2: ELECTION OF INDUSTRY PANEL MEMBERS (Version 16)

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1.3 Publication of Election Results

Amend paragraph 1.3.1 to read as follows:

1.3.1 Subject to paragraph 1.3.3, BSCCo shall as soon as reasonably practicable after the date determined in accordance with paragraph 1.2.1(d), make known the following:

(a) the total number of voting papers received by BSCCo in accordance with paragraph 3.1, but that have not been disregarded under paragraphs 1.2.3, 3.1.4 or 3.2.6;

(b) the total number of first, second and third preference votes allocated to each candidate from the ~~in all~~ voting papers submitted in accordance with paragraph 3.2 ~~and prior~~for each voting round~~s~~;

~~(c) the total number of remaining voting papers in each voting round;~~

(~~d~~c) the total number of remaining Panel Members to be elected in each voting round; and

(~~e~~d) the value of the ~~qualifying total in each voting round~~quota~~; and~~.

~~(f) the total number of qualifying preference votes allocated to each remaining candidate under all remaining voting papers in each voting round.~~

1.3.2 The provisions of paragraph 1.3.1 above shall also apply in the case of an election of any replacement Panel Member in accordance with paragraph 4.2.

1.3.3 Where the timetable for an election of a Panel Member is either:

(a) revised in accordance with paragraph 1.2.2; or

(b) expedited in accordance with paragraph 4.2.5;

then BSCCo shall make known the information described in paragraph 1.3.1 in accordance with such revised or expedited timetable.

3. VOTING

3.1 Voting papers

3.1.1 Voting papers shall be submitted in accordance with the election timetable.

Amend paragraph 3.1.2 to read as follows:

3.1.2 Subject to paragraph 3.1.3, each Trading Party may submit one voting paper to BSCCo for each Energy Account which is held by that Trading Party~~-~~.

3.1.3 Only one Trading Party (the "**voting**" Trading Party) in a trading party group may submit voting papers.

3.1.4 If more than one Trading Party in a trading party group submits voting papers:

(a) BSCCo shall endeavour to contact each of such Trading Parties to establish which of them is to be the voting Trading Party;

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(b) if one of such Trading Parties is confirmed as the voting Trading Party by each of the Trading Parties which BSCCo contacts, that Trading Party will be the voting Trading Party;

(c) otherwise, BSCCo shall select at random one of such Trading Parties to be the voting Trading Party and the others will be disregarded.

3.1.5 For the purposes of this paragraph 3, a "**trading party group**" means a Trading Party and every Affiliate of that Trading Party.

Amend the heading to paragraph 3.2 to read as follows:

3.2 Preference votes and voting ~~rounds~~

3.2.1 Each Trading Party submitting a voting paper shall vote by indicating on the voting paper a first, second and third preference ("**preference votes**") among the candidates.

3.2.2 A voting paper need not indicate a second, or a third, preference, but the same candidate may not receive more than one preference vote in a voting paper.

Amend paragraph 3.2.3 to read as follows:

3.2.3 Candidates shall be elected ~~in three voting rounds (together where necessary with a further round under paragraph 3.6)~~ through a single transferable vote process in accordance with the further provisions of this paragraph 3.

3.2.4 BSCCo will determine which candidates are elected and announce (to the Authority and all Parties) the results of the election in accordance with the election timetable.

3.2.5 BSCCo will not disclose the preference votes cast by individual Trading Parties; but a Trading Party may by notice to BSCCo require that the BSC Auditor scrutinise the conduct of the election, provided that such Trading Party shall bear the costs incurred by the BSC Auditor in doing so unless the BSC Auditor recommended that the election results should be annulled.

Amend paragraph 3.2.6 to read as follows:

3.2.6 Further references to voting papers in this paragraph 3 are to voting papers submitted to BSCCo pursuant to paragraph 3, but do not include voting papers which are invalid or are to be disregarded.

Replace the heading to paragraph 3.3 to read as follows:

3.3 **~~First voting round~~Determining the quota**

Amend paragraph 3.3.1 to read as follows:

3.3.1 ~~In the first voting round:~~The number of votes that candidates need in order to be elected (the "**quota**") is calculated by dividing the number of voting papers by the number of candidates to be elected plus one and adding a further 0.01 to the resulting figure as follows:

~~(a) the number of first preference votes allocated under all voting papers to each candidate shall be determined.~~

~~(b) the first round qualifying total shall be:~~

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$$Q = (T / (N) + -1) + 0.01$$

Where:

Q is the quota;

T is the total number of first preference votes in allvoting papers; and

N is the number of Panel Members to be elected.

Delete paragraph 3.2.2 as follows:

3.3.2 If the number of first preference votes allocated to any candidate is equal to or greater than the first round qualifying total, that candidate shall be elected.

Replace the heading to paragraph 3.4 to read as follows:

3.4 Second voting roundElecting the candidates

Replace paragraph 3.4.1 with the following new paragraph 3.4.1:

3.4.1 The election process shall be conducted in stages known as "**voting rounds**" until the required number of Panel Members is elected with each voting round building on the previous round.

3.4.1 In the second voting round:

(a) the remaining candidates are those which were not elected in the first voting round;

(b) the remaining voting papers are voting papers other than those under which the first preference votes were for candidates elected in the first voting round;

(c) the number of first and second preference votes allocated under all remaining voting papers to each remaining candidate shall be determined;

(d) the second round qualifying total shall be

$$(T' / N') + 1$$

where

T' is the total number of first preference votes and second preference votes allocated under all remaining voting papers;

N' is the number of Panel Members remaining to be elected after the first voting round.

Replace paragraph 3.4.2 with the following new paragraph 3.4.2:

3.4.2 In the first voting round:

(a) the voting papers are allocated between candidates according to the voters' first preference; and

(b) if the number of first preference votes received by any candidate is equal to or greater than the quota, that candidate or candidates shall be elected.

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~~3.4.2 If the number of first and second preference votes allocated to any remaining candidate is equal to or greater than the second round qualifying total, that candidate shall be elected.~~

Insert new paragraph 3.4.3 to read as follows:

3.4.3 In the second voting round:

(a) the remaining candidates are those that were not elected in the first voting round;

(b) if the required number of Panel Members is not elected after the completion of the first voting round, the next available transferrable preference vote in the voting papers allocated to each elected candidate shall be identified. Each such second, or where a second preference vote is not transferrable third, preference vote in favour of a remaining candidate shall be transferred to such candidate at a reduced value as follows:

reduced value = (S / R) * V

where:

S is the number of surplus votes of an elected candidate;

R is the total number of transferrable votes identified from the voting papers allocated to the elected candidate in the first voting round

V is the number of transferrable votes made in favour of a remaining candidate;

(c) "**surplus votes**", for the purposes of this paragraph 3.4, are the number of votes allocated to an elected candidate that are over and above the quota;

(d) a vote is "**transferrable**", for the purposes of this paragraph 3.4, where it (not being a first preference vote) is in favour of a remaining candidate;

(e) the next available transferrable votes for each candidate elected in the first round are transferred in turn, in descending order commencing with the elected candidate with the highest surplus votes, at their reduced value in accordance with paragraph (b);

(f) where two or more elected candidates have the same number of surplus votes, BSCCo shall draw lots to determine the order in which the next available transferrable votes are transferred;

(g) the transferred votes at their reduced value are added to the first preference votes of each remaining candidate to give the total votes allocated to such remaining candidate; and

(h) if, after each transfer of the next available transferrable preference votes under this paragraph 3.4.3, the total votes received by any remaining candidate is equal to or greater than the quota, that candidate or candidates shall be elected.

Insert new paragraph 3.4.4 to read as follows:

3.4.4 In the third voting round:

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(a) the remaining candidates are those that were not elected in the prior voting rounds;

(b) if the required number of Panel Members is not elected after the completion of the second voting round then the remaining candidate with the fewest votes at the end of the second voting round shall be excluded (the "**excluded candidate**");

(c) if the votes of two or more candidates are equal, and those candidates have the fewest votes, the candidate allocated the fewest votes in the first voting round or failing that the candidate with the fewest total votes after the second voting round shall be the excluded candidate. If the votes of such candidates have been equal at all such points BSCCo shall draw lots to determine which candidate shall be the excluded candidate;

(d) the next available transferrable preference vote in the voting papers allocated to the excluded candidate in the first voting round shall be transferred to the remaining candidate in whose favour such vote was made;

(e) the next available transferrable preference vote in the voting papers allocated to the excluded candidate in the second voting round shall be transferred to the remaining candidate in whose favour such vote was made at the same reduced value that each vote was transferred at in the second voting round;

(f) transferred votes are added to the total votes received by each remaining candidate in all prior voting rounds; and

(g) if, after the transfer of votes under this paragraph 3.4.4, the total number of votes received by any candidate is equal to or greater than the quota, that candidate or candidates shall be elected.

Insert new paragraph 3.4.5 to read as follows:

3.4.5 Further voting rounds:

(a) shall be conducted until the required number of Panel Members is elected;

(b) where one or more Panel Members have been elected in the prior voting round, the manner in which the further voting round shall be conducted shall be determined by whichever of the following is the greater:

(i) the total of the surplus votes of all candidates elected in the immediately preceding voting round; and

(ii) the difference in votes between the two remaining candidates with the fewest votes;

(c) where paragraph (b)(i) applies, the further voting round shall be conducted in accordance with paragraph 3.4.6;

(d) where paragraph (b)(ii) applies, or if no candidates were elected in the prior round, each further round shall be conducted by excluding the remaining candidate with the fewest votes in accordance with (mutatis mutandis) the process set out in paragraph 3.4.4;

(e) transferred votes are added to the total votes received by each remaining candidate under all prior voting rounds; and

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(f) if, after the transfer of the excluded candidate's votes under this paragraph 3.4.5, the total number of votes received by any candidate is equal to or greater than the quota, that candidate or candidates shall be elected.

Insert new paragraph 3.4.6 to read as follows:

3.4.6 Where paragraph 3.4.5(b)(i) applies:

(a) the voting papers allocated to each elected candidate in the immediately preceding voting round are identified and the next available transferrable preference votes from such voting papers are transferred to the remaining candidates in whose favour such votes were made;

(b) if the number of transferrable votes from the voting papers allocated to an elected candidate is equal to or less than the number of surplus votes of that elected candidate, the transfer value of each transferrable vote is one vote;

(d) if the number of transferrable votes from the voting papers allocated to the elected candidate exceeds the number of surplus votes of that elected candidate the votes in favour of a remaining candidate shall be transferred to such candidate at a reduced value as follows:

$$\text{reduced value} = (S / R) * V$$

where:

S is the number of surplus votes of an elected candidate;

R is the total number of transferrable votes identified from the voting papers transferred to that elected candidate in the immediately preceding round; and

V is the number of transferrable votes made in favour of a remaining candidate;

(e) the next available transferrable votes for each candidate elected in the immediately preceding round are transferred in turn, in descending order commencing with the elected candidate with the highest surplus votes;

(f) where two or more elected candidates have the same number of surplus votes, the elected candidate allocated the highest votes in the first voting round or failing that, the elected candidate with the highest total votes in the next subsequent voting round shall have the relevant transferrable votes transferred first. If the total votes of such candidates have been equal at all such points BSCCo shall draw lots to determine which of the elected candidates' transferrable votes should be transferred first;

(g) transferred votes are added to the total votes received by each remaining candidate in all prior voting rounds; and

(f) if, after each transfer of the next available transferable preference votes under this paragraph 3.4.6, the total votes received by any remaining candidate is equal to or greater than the quota, that candidate or candidates shall be elected.

Insert new paragraph 3.4.7 to read as follows:

3.4.7 In the event of a tie:

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(a) between two or more candidates in the final voting round, the candidate(s) (among those tied) with the greatest number of first preference votes shall be elected; and

(b) if the tie described in paragraph (a) is not resolved by the application of paragraph (a), or in any other circumstances where a tie cannot be resolved under the election process, BSCCo shall select the candidate(s) (among those tied) to be elected by drawing lots.

Delete paragraph 3.5 in its entirety:

~~**1. 3.5 Third voting round**~~

~~3.5.1 In the third voting round:~~

~~(a) the remaining candidates are those which were not elected in the first or second voting rounds;~~

~~(b) the remaining voting papers are voting papers other than those under which the first or second preference votes were for candidates elected in the first or second voting rounds;~~

~~(c) the number of first, second and third preference votes allocated under all remaining voting papers to each remaining candidate shall be determined;~~

~~(d) the third round qualifying total shall be~~

$$\cancel{(T'' / N'') + 1}$$

~~where~~

~~T'' is the total number of first preference votes, second preference votes and third preference votes allocated under all remaining voting papers;~~

~~N'' is the number of Panel Members remaining to be elected after the first and second voting rounds.~~

~~3.5.2 If the number of first, second and third preference votes allocated to any remaining candidate is equal to or greater than the third round qualifying total, that candidate shall be elected.~~

Delete paragraph 3.6 in its entirety:

~~**3.6 Further round**~~

~~3.6.1 If any Panel Member(s) remain to be elected after the third voting round:~~

~~(a) the then remaining candidates shall be ranked in order of the number of first preference votes allocated to them, and the candidate(s) with the greatest number of such votes shall be elected;~~

~~(b) in the event of a tie between two or more candidates within paragraph (a), the candidate(s) (among those tied) with the greatest number of second preference votes shall be elected;~~

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~~(c) in the event of a tie between two or more candidates within paragraph (b), BSCCo shall select the candidate(s) (among those tied) to be elected by drawing lots.~~

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