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DRAFT STATUTORY INSTRUMENTS

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**2016 No.**

**The European Union Referendum (Conduct) Regulations 2016**

**PART 2**

**REGULATIONS FOR THE CONDUCT OF THE  
REFERENDUM IN THE UNITED KINGDOM**

*Action to be taken before the poll*

**Notice of poll**

- 16.**—(1) The counting officer must give public notice of the poll stating—
- (a) the day and hours fixed for the poll;
  - (b) the question that is to appear on the ballot paper.
- (2) The notice of the poll must be published not later than the 15th day before the day of the referendum.
- (3) No later than the time of the publication of the notice of the poll, the counting officer must also give public notice of—
- (a) the situation of each polling station;
  - (b) the description of voters entitled to vote there.
- (4) As soon as practicable after giving the notice under paragraph (3), the counting officer must give a copy of it to each of the referendum agents appointed for the officer's area.

**Postal ballot papers**

- 17.**—(1) The counting officer must, in accordance with the relevant postal voting provisions, issue to those entitled to vote by post—
- (a) a ballot paper,
  - (b) in the case of those entitled to vote in England and Wales or Scotland, a postal voting statement in the form set out in Form 3 in Schedule 4, and
  - (c) in the case of those entitled to vote in Northern Ireland, a declaration of identity in the form set out in Form 4 in Schedule 4,
- together with envelopes for their return complying with the requirements prescribed by the relevant postal voting provisions.
- (2) The counting officer must also issue to those entitled to vote by post whatever information the officer thinks appropriate about how to obtain—
- (a) translations into languages other than English of any directions to, or guidance for, voters sent with the ballot paper;
  - (b) a translation into Braille of those directions or guidance;

- (c) graphical representations of those directions or guidance;
- (d) those directions or guidance in any other form (including any audible form).

(3) In the case of a ballot paper issued to a person resident in the United Kingdom, the counting officer must ensure that the return of the ballot paper and postal voting statement or declaration of identity is free of charge to the voter.

### **Provision of polling stations**

**18.**—(1) The counting officer must provide a sufficient number of polling stations and, subject to the following provisions of this regulation, must allot the electors to the polling stations in whatever manner the officer thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any parliamentary polling district wholly or partly within a particular voting area must, in the absence of special circumstances, be in the parliamentary polling place for that district unless the parliamentary polling place is outside the voting area.

(4) The number of ballot papers counted or votes cast as certified by the Chief Counting Officer or a Regional Counting Officer or counting officer may not be questioned by reason of—

- (a) any non-compliance with paragraph (3), or
- (b) any informality relative to polling districts or polling places.

(5) The counting officer must provide each polling station with however many compartments are necessary in which the voters can mark their votes screened from observation.

### **Appointment of presiding officers and clerks**

**19.**—(1) The counting officer must appoint and pay—

- (a) a presiding officer to attend at each polling station;
- (b) however many clerks are necessary for the purposes of the referendum.

But the officer may not employ a person who has been employed by or on behalf of a permitted participant in or about the referendum.

(2) The counting officer may, if the officer thinks fit, preside at a polling station.

The provisions of this Part relating to a presiding officer apply to a counting officer so presiding, with the necessary modifications as to things to be done by the counting officer to the presiding officer or by the presiding officer to the counting officer.

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

### **Issue of official poll cards**

**20.**—(1) The counting officer must, as soon as practicable after the publication of notice of the referendum, send to electors and their proxies an official poll card.

This paragraph is subject to paragraph (2).

(2) An official poll card must not be sent to a person registered, or to be registered, in pursuance of—

- (a) an overseas elector’s declaration, within the meaning of section 2 of the Representation of the People Act 1985(1) (registration of British citizens overseas), or
  - (b) a declaration made by virtue of subsection (5) of section 3 of that Act(2) (extension of franchise for European Parliamentary Elections).
- (3) An elector’s official poll card must be sent or delivered to his or her qualifying address.
- (4) A proxy’s official poll card must be sent or delivered to the address which—
- (a) is shown as the proxy’s address in the list of proxies, or
  - (b) in the case of a proxy for an elector with an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland, would be so shown but for regulation 74(4).
- (5) In the case of an elector who is entitled to vote in the referendum in England and Wales or Scotland—
- (a) an official poll card sent to the elector must be in the form set out in Form 5 in Schedule 4;
  - (b) an official postal poll card sent to the elector must be in the form set out in Form 6 in Schedule 4;
  - (c) an official poll card sent to the proxy of the elector must be in the form set out in Form 7 in Schedule 4;
  - (d) an official postal poll card sent to the proxy of the elector must be in the form set out in Form 8 in Schedule 4.
- (6) In the case of an elector who is entitled to vote in the referendum in Northern Ireland—
- (a) an official poll card sent to the elector must be in the form set out in Form 9 in Schedule 4;
  - (b) an official postal poll card sent to the elector must be in the form set out in Form 10 in Schedule 4;
  - (c) an official poll card sent to the proxy of the elector must be in the form set out in Form 11 in Schedule 4;
  - (d) an official postal poll card sent to the proxy of the elector must be in the form set out in Form 12 in Schedule 4.
- (7) An official poll card or official postal poll card may set out whatever information, in addition to that required by virtue of paragraph (5) or (6), the counting officer thinks appropriate.
- (8) Different information may be provided in pursuance of paragraph (7) to different electors or descriptions of elector.
- (9) In this regulation—
- “qualifying address” means the address in respect of which a person is entitled to be registered on the register of electors;
  - “elector” includes only those electors who, on the last day for publication of notice of the referendum, appear on a register to be used for the referendum.

#### **Notification that certain electors entitled to absent vote**

**21.—**(1) As soon as practicable after the publication of notice of the referendum, a registration officer must—

- (a) notify those peers who are within entry 2, 4 or 5 of the table in regulation 63(2) or 74(2) that they are entitled to vote by post in the referendum;

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(1) 1985 c.50. Section 2 was substituted by paragraphs 1 and 3 of Schedule 2 to the Representation of the People Act 2000 (c.2) and was amended by section 12(9) of the Electoral Administration Act 2006 (c.22) and by paragraph 21 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c.6).

(2) Section 3 was substituted by paragraphs 1 and 4 of Schedule 2 to the Representation of the People Act 2000 (c.2).

- (b) notify those electors who are within entry 2, 3, 4 or 5 of the table in regulation 63(3) or 74(3) that they are entitled to vote by proxy in the referendum.
- (2) A notice given to a person under paragraph (1)(b) must—
  - (a) in the case of a person within entry 2 of the table, state that the person’s entitlement to vote by proxy in the referendum arises by virtue of the person’s inclusion in the list of proxies for a specified poll mentioned in that entry;
  - (b) in the case of a person within entry 3 of the table, state that the person’s entitlement to vote by proxy in the referendum arises by virtue of the person’s inclusion in the record kept under paragraph 3 of Schedule 4 to the Representation of the People Act 2000(3) or (as the case may be) section 6 of the Representation of the People Act 1985(4) as voting by proxy at parliamentary elections;
  - (c) in the case of a peer within entry 4 of the table, state that the peer’s entitlement to vote by proxy in the referendum arises by virtue of the peer’s inclusion in the record kept under paragraph 3 of Schedule 4 to the Representation of the People Act 2000 or (as the case may be) paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985(5) as voting by proxy;
  - (d) in the case of a peer within entry 5 of the table, state that the peer’s entitlement to vote by proxy in the referendum arises by virtue of the peer’s inclusion in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004(6) or (as the case may be) regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004(7) as voting by proxy.

### Equipment of polling stations

22.—(1) The counting officer must provide each presiding officer with however many ballot boxes and ballot papers the counting officer thinks are necessary.

(2) Every ballot box must be constructed so that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or (in the case of a box without a lock) the seal being broken.

- (3) The counting officer must provide each polling station with—
  - (a) materials to enable voters to mark the ballot papers;
  - (b) copies of each register of electors used for the referendum that contains the entries relating to the electors allotted to the station (or, in the case of a register only part of which contains those entries, that part);
  - (c) the parts of any special lists prepared for the referendum corresponding to each register or part of a register provided under sub-paragraph (b);
  - (d) a list consisting of that part of the list prepared under regulation 11 that contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.

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(3) 2000 c.2. Paragraph 3 of Schedule 4 was amended by paragraph 164(1) and (2) of Schedule 27 to the Civil Partnership Act 2004 (c.33); section 14 of, and paragraphs 19, 20 137(1) and (4) of Schedule 1 to, the Electoral Administration Act 2006 (c.22); and sections 20(c)(i) and 34(5) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

(4) Section 6 was amended by section 1 of the Representation of the People Act 1990 (c.32); paragraph 134 of Schedule 1, and paragraphs 12 and 14 of Schedule 6, to the Representation of the People Act 2000 (c.2); section 3(1) and (2) of the Electoral Fraud (Northern Ireland) Act 2002 (c.13); paragraphs 7(1) and (2) of Schedule 4 to S.I. 2005/3129; and article 5(1) and (3) of S.I. 2014/1116.

(5) S.I. 1985/454. Paragraph 1, together with the rest of Part 1 of Schedule 2, was substituted by article 5(5) of, and Schedule 2 to, S.I. 1987/168.

(6) S.I. 2004/293. Schedule 2 was substituted by regulation 40 of, and Schedule 3 to, S.I. 2009/186.

(7) S.I. 2004/1267. Regulation 8 was amended by paragraph 2(1) and (2) of Schedule 9 to 2005/2114; regulation 7 of S.I. 2009/813; and regulations 9 and 12 of S.I. 2014/1803.

The list provided under sub-paragraph (d) must be in the form set out in Form 13 in Schedule 4.

- (4) The counting officer must also provide each polling station with—
  - (a) at least one large version of the ballot paper, which must be displayed inside the polling station for the assistance of voters who are partially sighted;
  - (b) a device for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (see regulation 36(1)).
- (5) The device mentioned in paragraph (4)(b) must—
  - (a) allow a ballot paper to be inserted into and removed from the device, or attached to and detached from it, easily and without damage to the paper;
  - (b) keep the ballot paper firmly in place during use;
  - (c) provide suitable means for the voter—
    - (i) to identify the spaces on the ballot paper on which the voter may mark his or her vote,
    - (ii) to identify the answer to which each such space refers, and
    - (iii) to mark his or her vote on the space the voter has chosen.
- (6) A notice giving directions for the guidance of the voters in voting must be printed in conspicuous characters and exhibited inside and outside every polling station.
- (7) That notice must be in the form set out in Form 14 in Schedule 4 (for a polling station in England, Wales or Scotland) or Form 15 in that Schedule (for a polling station in Northern Ireland).
- (8) In every compartment of every polling station there must be exhibited the notice—

“Put a cross [X] in one box only. Put no other mark on the ballot paper, or your vote may not be counted”.
- (9) The reference in paragraph (3)(b) to the copies of a register of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act<sup>(8)</sup> in respect of alterations to the register.

### **Appointment of polling and counting agents**

- 23.**—(1) A referendum agent may, before the commencement of the poll, appoint—
- (a) polling agents to attend at polling stations for the purpose of detecting personation;
  - (b) counting agents to attend at the counting of the votes.
- (2) A referendum agent may, for each count, designate one counting agent as a person authorised to require a re-count under regulation 47.
- A designation under this paragraph must be made at the same time as the person’s appointment as a counting agent.
- (3) In paragraph (2) “count” includes a re-count and “re-count” includes a further re-count.
  - (4) The counting officer may limit the number of counting agents that may be appointed, so long as—
    - (a) the number that may be appointed by each referendum agent is the same, and
    - (b) the number that may be appointed by each referendum agent is not (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of referendum agents.

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<sup>(8)</sup> Section 13B was inserted by paragraphs 1 and 6 of Schedule 1 to the Representation of the People Act 2000 (c.2); subsections (3B) and (3D) were inserted by section 11 of the Electoral Administration Act 2006 (c.22). Section 13BA(9) was inserted by section 6(2) of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33).

(5) For the purposes of paragraph (4)(b), a counting agent appointed by more than one referendum agent is to be treated as a separate agent for each of them.

(6) A referendum agent who appoints a polling or counting agent must give the counting officer notice of the appointment by no later than the 5th day before the day of the poll.

(7) If a polling or counting agent dies, or becomes incapable of acting, the referendum agent may appoint another agent and must give the counting officer notice of the new appointment as soon as practicable.

(8) If a referendum agent designates a counting agent under paragraph (2) the notice under paragraph (6) or (7) must include notice of that fact.

(9) A notice under paragraph (6) or (7)—

- (a) must be in writing, and
- (b) must give the name and address of the appointee.

(10) In the following provisions of this Part, references to polling agents and counting agents are to be read as references to polling or counting agents appointed under paragraph (1) or (7)—

- (a) whose appointments have been duly made and notified, and
- (b) where the number of agents is restricted, who are within the permitted numbers.

(11) Any notice required to be given to a counting agent by the counting officer may be delivered at, or sent by post to, the address stated in the notice of appointment.

(12) A referendum agent may do or assist in doing anything that a polling or counting agent appointed by him or her is authorised to do; and anything required or authorised by this Part to be done in the presence of the polling or counting agents may be done in the presence of a referendum agent instead of his or her polling or counting agents.

(13) Where by this Part anything is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agent or agents at the time and place appointed for the purpose does not invalidate the thing (if the thing is otherwise duly done).

### Notification of requirement of secrecy

**24.—**(1) The counting officer must make whatever arrangements the officer thinks are appropriate to ensure that—

- (a) every person attending at a polling station (otherwise than for the purpose of voting, or assisting a voter with disabilities to vote, or as a constable on duty there) has been given a copy in writing of the provisions of subsections (1), (3) and (6) of section 66 of the 1983 Act<sup>(9)</sup> as modified by Schedule 1;
- (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of subsections (2)<sup>(10)</sup> and (6) of that section as so modified.

(2) In the application of this regulation in England and Wales, a reference to a constable includes a person designated as a community support officer under section 38 of the Police Reform Act 2002<sup>(11)</sup> (police powers for employees).

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<sup>(9)</sup> Section 66(1) was amended by paragraphs 69 and 82 of Schedule 1 to the Electoral Administration Act 2006 (c.22); paragraphs 1 and 2 of Schedule 2 to the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14); and by article 3 of S.S.I. 2012/31. Section 66(3) was amended by paragraphs 69 and 86(b) of Schedule 1 to the Electoral Administration Act 2006 and section 34(1)(b)(ii) of the Local Electoral Administration and Registration Services (Scotland) Act 2006. Section 66(6) was amended by paragraph 3 of Schedule 3 to the Representation of the People Act 1985 (c.50).

<sup>(10)</sup> Section 66(2) was amended by paragraphs 69 and 86(a) of Schedule 1 to the Electoral Administration Act 2006 (c.22) and section 34(1)(b)(i) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

<sup>(11)</sup> 2002 c.30. Section 38 was amended by section 120 of, and paragraphs 179 and 181 of Schedule 4 to, the Serious Organised Crime and Police Act 2005 (c.15); section 7(1) of, and paragraphs 1 and 2 of Schedule 5 to, the Police and Justice Act 2006

## Return of postal ballot papers

25.—(1) Where—

- (a) a postal vote has been returned in respect of a person who is entered in the postal voters list, or
- (b) a proxy postal vote has been returned in respect of a proxy who is entered in the proxy postal voters list,

the counting officer must mark the list in the manner prescribed by the relevant postal voting provisions.

(2) Paragraph (1) does not apply in relation to a vote on a tendered postal ballot paper (see regulation 39).

(3) Regulation 46(3) and (5) does not apply for the purpose of determining whether, for the purposes of this regulation, a postal vote or a proxy postal vote is returned.