

Status: Point in time view as at 17/12/2015.

Changes to legislation: There are currently no known outstanding effects for the European Union Referendum Act 2015. (See end of Document for details)

VALID FROM 01/02/2016

SCHEDULES

SCHEDULE 1 **U.K.** Section 3

CAMPAIGNING AND FINANCIAL CONTROLS

.....

SCHEDULE 2 **U.K.** Section 3

CONTROL OF LOANS ETC TO PERMITTED PARTICIPANTS

Control of loans etc to permitted participants

1 For the purposes of the referendum, the 2000 Act has effect as if after Schedule 15 (in Part 7 of that Act) there were inserted—

“SCHEDULE
15A **U.K.**”

CONTROL OF LOANS ETC TO CERTAIN PERMITTED PARTICIPANTS

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Further modifications of 2000 Act relating to loans etc

2 (1) Section 120 of the 2000 Act (returns in respect of referendum expenses and donations) has effect in relation to the referendum as if at the end of subsection (2) (d) there were inserted “and a statement of regulated transactions entered into in respect of the referendum which complies with the requirements of paragraphs 16 to 20 of Schedule 15A”.

(2) Section 123 of the 2000 Act (declaration of responsible person as to return under section 120) has effect in relation to the referendum as if after subsection (3) (as modified by Schedule 1) there were inserted—

“(3A) In a case where the permitted participant either is not a registered party or is a minor party, the declaration must also, in relation to all regulated transactions recorded in the return as having been entered into by the permitted participant—

(a) state that none of the transactions was made void by paragraph 5(2) or (6) or 6(3) of Schedule 15A, or

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- (b) state whether or not paragraph 5(3)(a) of that Schedule was complied with in the case of each of the transactions that was made void by paragraph 5(2) or (6) of that Schedule.”
- (3) Section 124 of the 2000 Act (public inspection of returns under section 120) has effect in relation to the referendum as if after subsection (2) there were inserted—
- “(2A) If the return contains a statement of regulated transactions in accordance with section 120(2)(d), the Commission shall secure that the copy of the statement made available for public inspection does not include, in the case of a transaction entered into by the permitted participant with an individual, the individual's address.”
- (4) For the purposes of the referendum, the following provisions of Schedule 15 to the 2000 Act are to be treated as omitted—
- (a) paragraph 2(1)(d),
- (b) in paragraph 2(3)—
- (i) paragraph (a), and
- (ii) the words “the loan or”, and
- (c) in paragraph 5(4)—
- (i) the words “(d) or”,
- (ii) in paragraph (a) the words “the loan or”, and
- (iii) paragraph (a)(i).
- Accordingly, paragraph 2(3)(b) of that Schedule has effect for the purposes of the referendum as if for “such terms” there were substituted “ commercial terms ”.
- (5) Paragraph 10 of Schedule 15 to the 2000 Act, which is modified by paragraph 34 of Schedule 1, also has effect in relation to the referendum as if for paragraph (b) of sub-paragraph (2) there were substituted—
- “(b) the value of it and any other relevant benefit or benefits is more than that amount; and “relevant benefit” here means any relevant donation or regulated transaction (within the meaning of Schedule 15A) made by, or entered into with, the person who made the donation.”
- (6) Paragraph 1 of Schedule 19A to the 2000 Act (requirement to notify Commission of certain political contributions) has effect in relation to the referendum as if—
- (a) in sub-paragraph (2) after paragraph (f) there were inserted—
- “(fa) it makes a loan of money to a permitted participant, or discharges (to any extent) a liability of a permitted participant, in pursuance of a regulated transaction (within the meaning of Schedule 15A);”, and
- (b) in sub-paragraph (5)(e) for “sub-paragraph (2)(b) or (d)” there were substituted “ sub-paragraph (2)(b), (d) or (fa) ”.
- (7) Schedule 19C to the 2000 Act (civil sanctions), and any order under Part 5 of that Schedule, have effect as if offences under paragraphs 8 to 11 of the Schedule treated as inserted by paragraph 1 above were offences prescribed in an order under that Part.
- (8) Nothing in sub-paragraph (6) or (7) (read with section 12) is to be taken to mean that Schedule 19A or 19C of the 2000 Act extends or applies to Gibraltar for the purposes of the referendum.

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Transactions entered into before commencement: operation of paragraphs 1 and 2

- 3 (1) In this paragraph and paragraph 4 “Schedule 15A” means the Schedule treated as inserted by paragraph 1.
- (2) The following provisions of Schedule 15A—
- (a) paragraphs 1 and 3, and
 - (b) Parts 4 and 5, except paragraph 17(b),
- apply to a relevant varied transaction as they apply to a regulated transaction within the meaning of Schedule 15A.
- (3) Accordingly, any reference to a regulated transaction in a provision of the 2000 Act modified by paragraph 2 of this Schedule includes a relevant varied transaction.
- (4) For the purposes of this paragraph and paragraph 4 a transaction is a “relevant varied transaction” if—
- (a) the transaction was entered into, before or after the commencement of paragraph 1 of this Schedule, by a person who after entering into the transaction became a permitted participant,
 - (b) the transaction would have been a regulated transaction within the meaning given by paragraph 2 of Schedule 15A if at the time when that person entered into the transaction—
 - (i) that person had been a permitted participant, and
 - (ii) the use condition mentioned in paragraph 2(5) of Schedule 15A had been satisfied (if it was not in fact satisfied at the time the transaction was entered into),
 - (c) at a time after the commencement of paragraph 1 of this Schedule, and after that person became a permitted participant, the terms of that transaction were varied so as to increase the amount of money or benefit to which the permitted participant is entitled in consequence of the transaction, and
 - (d) at the time of that variation, the permitted participant intends to use any money or benefit obtained in consequence of the transaction for meeting referendum expenses incurred by or on behalf of the permitted participant.
- (5) For the purposes of sub-paragraph (4)(d) it is immaterial whether only part of the money or benefit is intended to be used as mentioned there.
- (6) In this paragraph “permitted participant” has the same meaning as it has in Schedule 15A (see paragraph 1(2) of that Schedule).
- (7) In sub-paragraph (4)—
- (a) the reference in paragraph (a) to a person who after entering into the transaction became a permitted participant includes an officer, member, trustee or agent of any such person, and
 - (b) in relation to a case where such an officer, member, trustee or agent entered into the transaction, the references in paragraphs (b)(i) and (c) to “that person” are to be read as references to the person for whom the person who entered into the agreement is an officer, member, trustee or agent.
- 4 Parts 2 and 3 of Schedule 15A do not apply to a relevant varied transaction (or to any other transaction which was entered into before the commencement of paragraph 1 of this Schedule or before a party to the transaction became a permitted participant).

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Reporting of regulated transactions during referendum period

- 5 (1) In this paragraph references to a permitted participant are to a permitted participant which either is not a registered party or is a minor party.
- (2) In relation to the referendum, the responsible person in relation to a permitted participant must prepare reports under this paragraph in respect of—
- (a) the period (“the first reporting period”) beginning with the commencement day and ending with the 7th day of the referendum period, and
 - (b) such other periods ending before the date of the referendum as may be prescribed by regulations made by the Minister;
- and in paragraph (a) “the commencement day” means the day on which that paragraph comes into force.
- (3) The report for a period must record, in relation to each regulated transaction having a value exceeding £7,500 which is entered into by the permitted participant during the period—
- (a) the nature of the transaction (that is to say whether it is a loan, a credit facility or an arrangement by which any form of security is given),
 - (b) the value of the transaction (determined in accordance with paragraph 3 of the Schedule treated as inserted by paragraph 1 above (“Schedule 15A”)) or, in the case of a credit facility or security to which no limit is specified, a statement to that effect,
 - (c) the date when the transaction was entered into by the permitted participant,
 - (d) the same information about the transaction as would be required by paragraph 18(3) and (4) of Schedule 15A to be recorded in the statement referred to in paragraph 15 of that Schedule,
 - (e) the information about each qualifying person who is a party to the transaction which is, in connection with recordable transactions entered into by registered parties, required to be recorded in weekly transaction reports by paragraph 3 of Schedule 6A to the 2000 Act (reading references in that paragraph to an authorised participant as references to a qualifying person who is a party to the transaction), and
 - (f) in relation to a transaction to which a person who is not a qualifying person is a party, the information referred to in paragraph 17 of Schedule 15A.
- (4) If during any period no regulated transactions having a value exceeding £7,500 were entered into by the permitted participant, the report for the period must contain a statement of that fact.
- (5) A report under this paragraph in respect of a period must be delivered by the responsible person to the Electoral Commission—
- (a) in the case of the report for the first reporting period, within 7 days beginning with the end of that period;
 - (b) in the case of the report for a period prescribed under sub-paragraph (2)(b), within such time as may be prescribed by regulations made by the Minister.
- (6) If, in relation to a regulated transaction entered into with an individual who has an anonymous entry in an electoral register, a report under this paragraph contains a statement that the permitted participant has seen evidence that the individual has such an anonymous entry, the report must be accompanied by a copy of the evidence.

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- (7) The Minister may by regulations modify the operation of sub-paragraphs (2) to (4) in relation to cases where an individual or body becomes a permitted participant during a period prescribed under sub-paragraph (2)(b).
- (8) Regulations under sub-paragraph (5) or (7) may make different provision for different cases.
- (9) The responsible person commits an offence if, without reasonable excuse, that person—
- (a) fails to comply with the requirements of sub-paragraph (5) in relation to a report under this paragraph, or
 - (b) delivers a report to the Electoral Commission that does not comply with the requirements of sub-paragraph (3), (4) or (6).
- (10) A person guilty of an offence under sub-paragraph (9)(a) is liable—
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale;
 - (c) on summary conviction in Gibraltar, to a fine not exceeding level 5 on the Gibraltar standard scale.
- (11) A person guilty of an offence under sub-paragraph (9)(b) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
 - (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
 - (d) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
 - (e) on summary conviction in Gibraltar, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the Gibraltar standard scale, or to both.
- (12) The reference in sub-paragraph (11)(b) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (13) In this paragraph—
- (a) “electoral register” means—
 - (i) an electoral register as defined by 54(8) of the 2000 Act, or
 - (ii) the Gibraltar register as defined by section 14 of the European Parliament (Representation) Act 2003,
 - (b) the following expressions—
 - “qualifying person”, and
 - “regulated transaction”, have the same meaning as in the Schedule treated as inserted by paragraph 1, and

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(c) references to a regulated transaction entered into by a permitted participant include any transaction entered into at a time before the individual or body concerned became a permitted participant, if the transaction would have been a regulated transaction had the individual or body been a permitted participant at that time.

(14) Paragraph 23 of the Schedule treated as inserted by paragraph 1 applies for the purposes of this paragraph as it applies for the purposes of the provisions of that Schedule relating to the reporting of transactions.

Declaration of responsible person as to reports under paragraph 5

6 (1) Each report delivered under paragraph 5 must be accompanied by a declaration which complies with sub-paragraph (2) and is signed by the responsible person.

(2) The declaration must state—

- (a) that the responsible person has examined the report, and
- (b) that to the best of the responsible person's knowledge and belief, it is a complete and correct report as required by law.

(3) A person commits an offence if—

- (a) the person knowingly or recklessly makes a false declaration under this paragraph, or
- (b) sub-paragraph (1) is contravened at a time when the person is the responsible person in the case of the permitted participant to which the report relates.

(4) A person guilty of an offence under sub-paragraph (3) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
- (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine, or to both;
- (c) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
- (d) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both;
- (e) on summary conviction in Gibraltar, to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the Gibraltar standard scale, or to both.

(5) The reference in sub-paragraph (4)(b) to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.

Public inspection of reports under paragraph 5

7 (1) Where the Electoral Commission receive a report under paragraph 5 they must—

- (a) as soon as is reasonably practicable after receiving the report, make a copy of the report and of any document accompanying it available for public inspection, and

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- (b) keep any such copy available for public inspection for the period for which the report or other document is held by them.
- (2) The Electoral Commission must secure that the copy of the report made available for public inspection does not include, in the case of any transaction entered into by the permitted participant with an individual, the individual's address.
- (3) At the end of the period of two years beginning with the date when any report under paragraph 5 or other document accompanying it is received by the Electoral Commission—
- (a) they may cause the report or other document to be destroyed, or
- (b) if requested to do so by the responsible person in the case of the permitted participant concerned, they must arrange for the report or other document to be returned to that person.
- 8 Section 149(2) to (5) and (7) of the 2000 Act (inspection of Commission's documents) apply in relation to reports and documents which the Electoral Commission are required to make available for public inspection under paragraph 7 as they apply to the documents which the Electoral Commission are required to make available for public inspection by virtue of the provisions of the 2000 Act mentioned in section 149(6) of that Act.

Enforcement

- 9 (1) Section 145(1)(a) and (6A) of the 2000 Act (general functions of Electoral Commission with respect to compliance) apply in relation to the requirements imposed by this Schedule as they apply in relation to the requirements referred to in section 145(1)(a).
- (2) In section 148 of the 2000 Act (general offences), the references in each of subsections (1) to (3) to any of the provisions of that Act include any of the provisions of this Schedule.
- (3) Sections 151 and 154 of the 2000 Act (summary proceedings, and duty of court to report conviction to Electoral Commission) apply in relation to an offence under this Schedule as they apply in relation to an offence under that Act.
- (4) In paragraphs 3 to 5 of Schedule 19B to the 2000 Act (powers of Electoral Commission in relation to suspected offences or contraventions)—
- (a) the references to an offence under that Act include an offence under this Schedule, and
- (b) the references to a restriction or other requirement imposed by or by virtue of that Act include a requirement or restriction imposed by or by virtue of this Schedule.
- (5) Schedule 19C to the 2000 Act (civil sanctions), and any order under Part 5 of that Schedule, have effect as if any reference in that Schedule to an offence under the 2000 Act, or to a prescribed offence under that Act, included a reference to an offence under paragraph 5(9) of this Schedule.
- (6) Nothing in sub-paragraph (4) or (5) (read with section 12) is to be taken to mean that Schedule 19B or 19C to the 2000 Act extends or applies to Gibraltar for the purposes of the referendum.

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Persons with whom certain registered parties may enter into loan agreements etc

- 10 (1) Sub-paragraph (2) applies if—
- (a) a permitted participant—
 - (i) is a party to a transaction which is a regulated transaction for the purposes of Part 4A of the 2000 Act, or
 - (ii) derives a benefit from a transaction which is a connected transaction for the purposes of that Part,
 - (b) that transaction is entered into during the referendum period,
 - (c) the permitted participant is a registered party that is not a minor party,
 - (d) any of the other parties to the regulated transaction or any of the parties to the connected transaction (as the case may be) is a person (“the unauthorised person”) who, in relation to that transaction, is not an authorised participant for the purposes of Part 4A of the 2000 Act by virtue of section 71H of that Act, and
 - (e) the unauthorised person is a person within sub-paragraph (3).
- (2) In relation to the transaction mentioned in sub-paragraph (1)(a)(i) or (ii), the unauthorised person is to be regarded for the purposes of Part 4A of the 2000 Act as an authorised participant.
- (3) The persons within this sub-paragraph are—
- (a) a Gibraltar elector;
 - (b) a body falling within any of paragraphs (b) to (g) of section 54(2A) of the 2000 Act;
 - (c) a body incorporated by Royal Charter which does not fall within section 54(2) of that Act;
 - (d) a charitable incorporated organisation within the meaning of Part 11 of the Charities Act 2011 or Part 11 of the Charities Act (Northern Ireland) 2008;
 - (e) a Scottish charitable incorporated organisation within the meaning of Chapter 7 of Part 1 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
 - (f) a partnership constituted under the law of Scotland which carries on business in the United Kingdom.
- (4) In this paragraph “Gibraltar elector” has the same meaning as in the 2000 Act (see section 160(1) of that Act).
- 11 Where paragraph 10 applies in relation to a transaction to which a permitted participant is a party, or from which a permitted participant derives a benefit, paragraph 2 of Schedule 6A to the 2000 Act (details to be given in quarterly reports) has effect as if—
- (a) in sub-paragraph (1) for “(10)” there were substituted “ (10C) ”, and
 - (b) the following sub-paragraphs were inserted after sub-paragraph (10)—
 - “(10A) In the case of a body within paragraph 10(3)(c) of Schedule 2 to the European Union Referendum Act 2015 (body incorporated by Royal Charter) the report must give—
 - (a) the name of the body, and
 - (b) the address of its main office in the United Kingdom.

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- (10B) In the case of a body within paragraph 10(3)(d) or (e) of that Schedule (charitable incorporated organisation) the report must give—
- (a) the name of the body, and
 - (b) the address of its principal office.
- (10C) In the case of a body within paragraph 10(3)(f) of that Schedule (Scottish partnership) the report must give—
- (a) the name of the body, and
 - (b) the address of its main office in the United Kingdom.”
- 12 (1) This paragraph applies to a variation of a regulated transaction if—
- (a) the regulated transaction was entered into by a permitted participant during the referendum period,
 - (b) the permitted participant is a registered party that is not a minor party,
 - (c) one of the other parties to the regulated transaction is an authorised participant in relation to the transaction by virtue of paragraph 10 of this Schedule, and
 - (d) the variation has the effect of increasing the value of the regulated transaction or enabling it to be increased.
- (2) It does not matter for the purposes of sub-paragraph (1)(d) when the variation is entered into or when the increase takes effect or could take effect.
- (3) The variation is to be treated for the purposes of sections 71I(2) to (4) of the 2000 Act as a regulated transaction in which another participant is not an authorised participant.
- (4) An order made under section 71I(4) of the 2000 Act in relation to a variation to which this paragraph applies may in particular—
- (a) require that any amount owed as a result of the variation be repaid (and that no further sums be advanced under the terms of the variation);
 - (b) where any additional security is provided under the terms of the variation, require that security to be discharged.
- (5) In this paragraph—
- (a) “authorised participant” means an authorised participant for the purposes of Part 4A of the 2000 Act;
 - (b) “regulated transaction” and references to the value of a regulated transaction have the same meaning as in Part 4A of the 2000 Act (see sections 71F and 71G of that Act).
- 13 (1) Section 71L of the 2000 Act (offences relating to regulated transactions) has effect with the following modifications.
- (2) In each of subsections (1)(a), (2)(b), (3)(a) and (4)(a), the reference to entering into a regulated transaction of a description mentioned in section 71F(2) or (3) in which another participant is not an authorised participant includes a reference to entering into a variation to which paragraph 12 of this Schedule applies.
- (3) In relation to such a variation—

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- (a) subsection (3)(b) has effect as if for the words “that the other participant is not an authorised participant” there were substituted “ of the matters mentioned in paragraph (a) ”, and
 - (b) subsections (3)(c), (4)(c) and (10) each have effect as if the reference to the transaction were to the variation.
- (4) In subsection (9), the reference to a regulated transaction with a person other than an authorised participant includes a reference to a variation to which paragraph 12 of this Schedule applies.

SCHEDULE 3 U.K.

Section 3

FURTHER PROVISION ABOUT THE REFERENDUM

Interpretation

- 1 In this Schedule a reference to functions includes functions conferred by any provision of law made in and for Gibraltar.

Appointment of Chief Counting Officer

- 2 (1) Section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum with the following modifications.
- (2) Subsection (2) has effect for those purposes as if—
- (a) the words “(subject to subsection (8))” were omitted, and
 - (b) in paragraph (b), after “appoints” there were inserted “ in writing ”.
- (3) For the purposes of the referendum subsection (8) is to be treated as omitted.
- (4) See also paragraphs 4 and 6 (which contain additional modifications of section 128 of the 2000 Act for the purposes of the referendum).

Counting officers

- 3 (1) This paragraph applies to determine, for the purposes of the referendum, who is a counting officer in relation to a voting area.
- (2) The counting officer for a voting area that is—
- (a) a district in England,
 - (b) a county in England, or
 - (c) a London borough,
- is the person who, by virtue of section 35 of the 1983 Act, is the returning officer for elections of councillors of the district, county or borough.
- (3) The counting officer for the City of London voting area is the person who, by virtue of that section, is the returning officer for elections of councillors of the London borough of Westminster.
- (4) The counting officer for the Isles of Scilly voting area is the person who, by virtue of that section, is the returning officer for elections to the Council of the Isles of Scilly.

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- (5) The counting officer for a voting area that is a county or a county borough in Wales is the person who, by virtue of that section, is the returning officer for elections of councillors of the county or county borough.
- (6) The counting officer for a voting area that is a local government area in Scotland is the person who, by virtue of section 41 of the 1983 Act, is the returning officer for elections of councillors of the local government area.
- (7) The counting officer for the Northern Ireland voting area is the Chief Electoral Officer for Northern Ireland.
- (8) The counting officer for the Gibraltar voting area is the Clerk to the Gibraltar Parliament.
- 4 (1) Accordingly, section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum with the following modifications.
- (2) For the purposes of the referendum subsection (3) is to be treated as omitted.
- (3) Subsection (5) has effect for the purposes of the referendum as if for the words “the area for which he is appointed” there were substituted “the voting area for which the counting officer acts”.
- (4) Subsection (9) has effect for the purposes of the referendum as if—
- (a) for paragraph (a) there were substituted—
“(a) voting area” has the meaning given by section 11 of the European Union Referendum Act 2015;”,
 - (b) paragraph (b) were omitted, and
 - (c) for paragraph (c) there were substituted—
“(c) the referendum area” means the United Kingdom and Gibraltar.”
- Regional Counting Officers*
- 5 (1) For the purposes of the referendum, the Chief Counting Officer may appoint a Regional Counting Officer for any of the following regions—
- East Midlands;
 - Eastern;
 - London;
 - North East;
 - North West;
 - South East;
 - South West and Gibraltar;
 - West Midlands;
 - Yorkshire and the Humber;
 - Scotland;
 - Wales.
- (2) Where—
- (a) a region mentioned in sub-paragraph (1) (a “listed region”), and

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(b) a region mentioned in the Table in Schedule 1 to the European Parliamentary Elections Act 2002 (an “electoral region”),
 have the same name, the listed region comprises the areas specified in relation to that electoral region in that Table as they are for the time being.

(3) The South West and Gibraltar region mentioned in sub-paragraph (1) comprises the areas specified in relation to the South West region in that Table as they are for the time being.

(4) In determining for the purposes of sub-paragraph (2) or (3) what the areas are that are specified in that Table, paragraph 2(2) of Schedule 1 to the European Parliamentary Elections Act 2002 is to be ignored.

Assistance to counting officers etc

6 (1) A local authority whose area forms a particular voting area must place the services of their officers at the disposal of—

- (a) the counting officer for the voting area, and
- (b) the Regional Counting Officer (if any) appointed for the region that includes the voting area,

for the purpose of assisting the officer in the discharge of his or her functions.

(2) In this paragraph “local authority”—

- (a) in the case of a voting area that is a district or county in England, or a London borough, means the council for that district, county or borough;
- (b) in the case of the City of London voting area, means the Common Council of the City of London;
- (c) in the case of the Isles of Scilly voting area, means the Council of the Isles of Scilly;
- (d) in the case of a voting area in Wales, means the council of the county or county borough;
- (e) in the case of a voting area in Scotland, means the council of the local government area.

(3) The Government of Gibraltar must place the services of its public officers at the disposal of—

- (a) the Clerk to the Gibraltar Parliament, as counting officer for the Gibraltar voting area, and
- (b) the Regional Counting Officer (if any) appointed for the South West and Gibraltar region,

for the purpose of assisting the officer in the discharge of his or her functions as counting officer or as Regional Counting Officer (as the case may be).

(4) Accordingly, section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum as if subsection (4) were omitted.

General duties of counting officers etc

7 (1) The Chief Counting Officer, Regional Counting Officers and counting officers must do whatever things are necessary for conducting the referendum in the manner provided—

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- (a) by and under this Act, and
 - (b) in the case of the Chief Counting Officer, the Regional Counting Officer (if any) appointed for the South West and Gibraltar region and the counting officer for the Gibraltar voting area, by Gibraltar conduct law.
- (2) The counting officer for a voting area is responsible, as regards that area, for—
- (a) the conduct of the poll,
 - (b) (subject to sub-paragraph (3)) the printing of the ballot papers,
 - (c) the issue and receipt of postal ballot papers for persons entitled to vote on their own behalf in the referendum and for their proxies,
 - (d) the counting of the votes cast, and
 - (e) any other matters specified in conduct regulations or Gibraltar conduct law (as the case may be).
- (3) Responsibility for the printing of the ballot papers for a voting area may be taken—
- (a) by the Chief Counting Officer;
 - (b) in the case of a voting area in a region for which a Regional Counting Officer is appointed, by the Chief Counting Officer or the Regional Counting Officer.

The Chief Counting Officer or Regional Counting Officer may direct the counting officer concerned accordingly.

- (4) In the case of a region for which a Regional Counting Officer is appointed for the purposes of the referendum, the officer must certify as regards the votes cast in the region—
- (a) the total number of ballot papers counted, and
 - (b) the total number of votes cast in favour of each answer to the question asked in the referendum.

Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under paragraph (a) in relation to each form of ballot paper used.

- (5) The Chief Counting Officer may give Regional Counting Officers or counting officers—
- (a) directions about the discharge of their functions;
 - (b) directions requiring them to take specified steps in preparation for the referendum;
 - (c) directions requiring them to provide the Chief Counting Officer with information that they have or are entitled to have.
- (6) A Regional Counting Officer for a region may give counting officers for voting areas within that region—
- (a) directions about the discharge of their functions;
 - (b) directions requiring them to take specified steps in preparation for the referendum;
 - (c) directions requiring them to provide the Regional Counting Officer with information that they have or are entitled to have.
- (7) A power under this paragraph of a Regional Counting Officer to give a direction to a counting officer is exercisable only in accordance with a specific or general authorisation or direction given by the Chief Counting Officer.

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- (8) A person to whom a direction is given under this paragraph must comply with it.
- (9) This paragraph applies in addition to section 128 of the 2000 Act (as modified by this Schedule).
- (10) The number of ballot papers or votes purportedly certified under this paragraph or section 128 of the 2000 Act is not liable to be questioned by reason of a defect in the title, or a lack of title, of any person purporting to exercise functions in relation to the referendum, if the person was then in actual possession of, or acting in, the office giving the right to exercise the functions.

Appointment of deputies and clerks

- 8 (1) The Chief Counting Officer or a Regional Counting Officer or counting officer may appoint deputies to carry out any or all of the officer's functions.
- (2) An appointment under sub-paragraph (1) must be in writing.
- (3) A Regional Counting Officer may appoint however many clerks are necessary to assist in carrying out the officer's functions.

Counting officers etc: correction of procedural errors

- 9 (1) A Regional Counting Officer or counting officer may take whatever steps the officer thinks appropriate to remedy any act or omission on the part of the officer or a relevant person that—
 - (a) arises in connection with any function that the officer or relevant person has in relation to the referendum, and
 - (b) is not in accordance with any requirements applicable to the referendum imposed as described in sub-paragraph (4) or otherwise.
- (2) A re-count of votes in reliance on sub-paragraph (1) may only be conducted in the circumstances (if any) specified in conduct regulations or Gibraltar conduct law (as the case may be).
- (3) For the purposes of this paragraph each of the following is a “relevant person”—
 - (a) a registration officer;
 - (b) the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003);
 - (c) a clerk of, or a person providing goods or services to, the Regional Counting Officer or the counting officer;
 - (d) any person designated by conduct regulations or Gibraltar conduct law as a relevant person for the purposes of this sub-paragraph;
 - (e) a deputy or assistant of—
 - (i) the Regional Counting Officer or the counting officer, or
 - (ii) a person mentioned in paragraph (a), (b), (c) or (d).
- (4) For the purposes of sub-paragraph (1)(b) requirements are imposed as described in this sub-paragraph if they are imposed—
 - (a) by or under this Act, or
 - (b) in the case of the Regional Counting Officer (if any) appointed for the South West and Gibraltar region, the counting officer for the Gibraltar voting area

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or a Gibraltar relevant person, by any provision of law made in and for Gibraltar.

- (5) For the purposes of sub-paragraph (4)(b) each of the following relevant persons is a “Gibraltar relevant person”—
- (a) the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003);
 - (b) a clerk of the Regional Counting Officer (if any) appointed for the South West and Gibraltar region;
 - (c) a person providing goods or services to the Regional Counting Officer (if any) appointed for the South West and Gibraltar region or to the counting officer for the Gibraltar voting area;
 - (d) any person designated by conduct regulations or Gibraltar conduct law as a relevant person for the purposes of this sub-paragraph;
 - (e) a deputy or assistant of—
 - (i) the Regional Counting Officer (if any) appointed for the South West and Gibraltar region or the counting officer for the Gibraltar voting area, or
 - (ii) a person mentioned in paragraph (a), (b), (c) or (d).
- (6) For the purposes of sub-paragraph (3)(e) and (5)(e) a person (“A”) is an assistant of another person (“P”) if—
- (a) A is appointed to assist P, or
 - (b) in the course of employment A is assisting P,
- in connection with any function in relation to the referendum.

Public notices

- 10 A public notice required by or under this Act or Gibraltar conduct law to be given by the Chief Counting Officer, a Regional Officer or a counting officer must be given—
- (a) by posting the notice in some conspicuous place in the area or region for which the officer acts, or
 - (b) in whatever other manner the officer thinks desirable for publicising it.

Role of Electoral Commission

- 11 (1) The Electoral Commission must take whatever steps they think appropriate to promote public awareness about the referendum and how to vote in it.
- (2) Following the referendum, the Electoral Commission must—
- (a) publish the most accurate estimate that it is reasonably possible to make of the turnout in each of England, Wales, Scotland, Northern Ireland and Gibraltar, and
 - (b) include that information in any report they submit under section 6(1)(b) of the 2000 Act which relates to the referendum.
- (3) In sub-paragraph (2) “turnout” means the percentage of those entitled to vote in the referendum who did so.
- (4) The reference in sub-paragraph (3) to those entitled to vote in the referendum who did so includes any persons entitled to vote who conduct regulations or Gibraltar

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conduct law provides are to be treated for the purposes of sub-paragraph (3) as having voted.

Encouraging participation

- 12 (1) The Chief Counting Officer must take whatever steps the officer thinks appropriate to encourage participation in the referendum.
- (2) An officer to whom sub-paragraph (3) applies must take whatever steps the officer thinks appropriate to encourage participation in the referendum in the area or region for which the officer acts.
- (3) This sub-paragraph applies to—
- (a) a Regional Counting Officer;
 - (b) a counting officer;
 - (c) a registration officer.
- (4) The Chief Counting Officer must take whatever steps the officer thinks appropriate to facilitate co-operation between that officer and the officers to whom sub-paragraph (3) applies in taking any steps under sub-paragraph (1) or (2).
- (5) In discharging the duty imposed by sub-paragraph (1) or (2) an officer must have regard to any guidance issued by the Electoral Commission.
- (6) The Minister may reimburse any expenditure incurred by an officer for the purposes of sub-paragraph (1) or (2).
- (7) A reference in this paragraph to “a registration officer” includes the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003).

Supply and use of register of electors

- 13 (1) The Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) have effect for the purposes of the referendum with the following modifications.
- (2) Regulation 106 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
- (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “ which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act ”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “, and
 - (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants), and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”
- 14 (1) The Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497) have effect for the purposes of the referendum with the following modifications.

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- (2) Regulation 105 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
- (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “ which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act ”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “, and
 - (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants), and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”
- 15 (1) The Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741) have effect for the purposes of the referendum with the following modifications.
- (2) Regulation 105 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
- (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “ which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act ”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “; and
 - (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants); and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”
- Payments to counting officers and Regional Counting Officers*
- 16 (1) Subject to sub-paragraphs (3) and (4), a counting officer or Regional Counting Officer is entitled to recover his or her charges in respect of services rendered, or expenses incurred, for or in connection with the referendum if—
- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the referendum, and
 - (b) the total of the officer's charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, regulations made by the Minister, with the consent of the Treasury, for the purposes of this sub-paragraph.
- (2) Sub-paragraph (3) applies to a service rendered by—
- (a) the counting officer for a voting area in England, Wales or Scotland,
 - (b) the Clerk to the Gibraltar Parliament, as counting officer for the Gibraltar voting area, or
 - (c) a Regional Counting Officer,
- which in the opinion of the Electoral Commission was inadequately performed.

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- (3) In respect of a service to which this sub-paragraph applies, the officer is entitled under sub-paragraph (1) to no more than the amount (which may be nil) that seems reasonable in all the circumstances—
- (a) to the Commission, or
 - (b) on a taxation under paragraph 17, to the county court, the Auditor of the Court of Session or the Gibraltar court (as the case may be).
- (4) Regulations under sub-paragraph (1) may specify, or make provision for determining in accordance with the regulations, a maximum recoverable amount for services or expenses of a specified description—
- (a) for counting officers;
 - (b) for Regional Counting Officers.
- Subject to sub-paragraph (5), an officer may not recover more than the specified amount in respect of such services or expenses.
- (5) In a particular case the Electoral Commission may, with the consent of the Treasury, authorise the payment of—
- (a) more than the overall maximum recoverable amount, or
 - (b) more than the amount specified as the maximum recoverable amount for services or expenses of a specified description,
- if the Commission are satisfied that the conditions in sub-paragraph (6) are met.
- (6) The conditions are—
- (a) that it was reasonable for the officer concerned to render the services or incur the expenses, and
 - (b) that the charges in question are reasonable.
- (7) The Chief Counting Officer is entitled to recover expenses incurred by that officer for or in connection with the referendum if—
- (a) the expenses are of a kind that would otherwise have been incurred by counting officers or Regional Counting Officers, and
 - (b) the Chief Counting Officer considered that it would be more economical for the expenses to be incurred by that officer instead.
- (8) The Electoral Commission must pay the amount of any charges recoverable in accordance with this paragraph on an account being submitted to them.
- (9) At the request of a counting officer or Regional Counting Officer or the Chief Counting Officer, the Electoral Commission may make an advance on account of the officer's charges on such terms as they think fit.
- (10) The Electoral Commission may by regulations make provision as to the time when and the manner and form in which accounts are to be rendered to the Commission for the purposes of the payment of the charges of a counting officer or Regional Counting Officer or the Chief Counting Officer.
- (11) Regulations under this paragraph may make different provision for different cases or areas.
- (12) Any sums required by the Electoral Commission for making payments under this paragraph are to be charged on and paid out of the Consolidated Fund.

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Taxation of counting officer's or Regional Counting Officer's account

- 17 (1) An application for the account of a counting officer or Regional Counting Officer to be taxed may be made—
- (a) except where any of paragraphs (b) to (d) applies, to the county court;
 - (b) in the case of the Chief Electoral Officer for Northern Ireland, to the county court that has jurisdiction at the place where the officer certified the number of ballot papers counted and votes cast;
 - (c) where the officer is one who was appointed for an area in Scotland, or for the region of Scotland, to the Auditor of the Court of Session;
 - (d) in the case of the Clerk to the Gibraltar Parliament, to the Gibraltar court.
- (2) On any such application the court has jurisdiction to tax the account in whatever manner and at whatever time and place the court thinks fit, and finally to determine the amount payable to the officer.
- (3) Where an application is made for the account of a counting officer or Regional Counting Officer to be taxed, the officer may apply to the court for it to examine any claim made by any person (“the claimant”) against the officer in respect of matters charged in the account.
- (4) On an application under sub-paragraph (3), after the claimant has been given notice and an opportunity to be heard and to tender any evidence, the court may allow, disallow or reduce the claim, with or without costs.
- (5) A reference in this paragraph to “the court” includes a reference to the Auditor of the Court of Session.
- (6) In this paragraph, “Gibraltar court” means the court determined by or under the law of Gibraltar to be the court for the purpose of this paragraph.

Electoral Commission accounts

- 18 (1) If directed to do so by the Treasury, the Electoral Commission must prepare accounts in respect of their expenditure in relation to the referendum.
- (2) Accounts under this paragraph must be prepared in accordance with directions given to the Commission by the Treasury.
- (3) Directions under sub-paragraph (2) may include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and
 - (c) the additional information (if any) that is to accompany the accounts.
- (4) Accounts under this paragraph must be submitted by the Commission to—
- (a) the Comptroller and Auditor General, and
 - (b) the Speaker's Committee,
- as soon may be practicable after the giving of the direction under sub-paragraph (1).

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Changes to legislation: There are currently no known outstanding effects for the European Union Referendum Act 2015. (See end of Document for details)

Restriction on challenge to referendum result

- 19 (1) No court may entertain any proceedings for questioning the number of ballot papers counted or votes cast in the referendum as certified by the Chief Counting Officer or a Regional Counting Officer or counting officer unless—
- (a) the proceedings are brought by a claim for judicial review, and
 - (b) the claim form is filed before the end of the permitted period.
- (2) In sub-paragraph (1) “the permitted period” means the period of 6 weeks beginning with—
- (a) the day on which the officer in question gives a certificate as to the number of ballot papers counted and votes cast in the referendum, or
 - (b) if the officer gives more than one such certificate, the day on which the last is given.
- (3) In the application of this paragraph to Scotland, sub-paragraph (1) has effect—
- (a) with the substitution in paragraph (a) of “a petition” for “a claim”;
 - (b) with the substitution in paragraph (b) of “the petition is lodged” for “the claim form is filed”.
- (4) In the application of this paragraph to Northern Ireland, sub-paragraph (1) has effect—
- (a) with the substitution in paragraph (a) of “an application” for “a claim”;
 - (b) with the substitution in paragraph (b) of “the application for leave to apply for judicial review is lodged” for “the claim form is filed”.
- (5) In the application of this paragraph to Gibraltar, sub-paragraph (1) has effect with the substitution in paragraph (a) of “an application” for “a claim”.

Status:

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Changes to legislation:

There are currently no known outstanding effects for the European Union Referendum Act 2015.