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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations supplement provisions about the conduct of the European Union referendum contained in the European Union Referendum Act 2015 (“the 2015 Act”), in particular Schedule 3 to the 2015 Act.

The Regulations are based on rules that govern the conduct of parliamentary elections (see Schedule 1 to the Representation of the People Act 1983 (c.2) (“the 1983 Act”) and rules that were used for the Parliamentary Voting System referendum in 2011 (see Schedules 2 to 4 to the Parliamentary Voting System and Constituencies Act 2011 (c.1)). Those rules have been modified to reflect the fact that the European Union referendum will take place in Gibraltar as well as in the United Kingdom. They have also been updated to reflect changes to electoral law, notably changes made by and under the Electoral Registration and Administration Act 2013 and changes in Northern Ireland providing for the registration of anonymous electors.

Part 1 contains introductory provisions. Regulation 2 provides that the Regulations extend to the whole of the United Kingdom only, except for a small number of provisions which extend also to Gibraltar. It is expected that the Gibraltar Parliament and Government will make further provision for the conduct of the referendum in Gibraltar (“Gibraltar conduct law”).

Part 2 contains the main conduct rules. Part 2 covers such matters as: the timetable for the referendum (regulation 6); the provision and equipment of polling stations (regulations 18 and 22); the appointment of polling and counting agents by referendum agents appointed by permitted participants under Schedule 1 to the 2015 Act regulation (regulation 23); voting procedure (regulations 29 to 39); counting and re-counting of votes (regulations 45 to 50); the declaration of results (regulations 51 to 54); and the disposal of ballot papers and other referendum documents after the poll (regulations 55 to 58).

Part 3 contains the absent voting rules, which provide for people to vote by post or proxy in the referendum as an alternative to voting in person at a polling station. Chapter 1 of Part 3 relates to Great Britain; Chapter 2 relates to Northern Ireland. The referendum absent voting rules build on the rules that apply at elections. If a person is eligible to vote at specified elections by post or proxy for an indefinite or definite period, the person will be entitled to vote by post or proxy in the referendum (see the tables in regulations 63(2) and (3) and 74(2) and(3)). A person who is not listed as voting by post or proxy at elections may apply to vote by post or proxy specifically in the referendum (under regulation 62 or 73).

Part 4 contains regulations about the application and amendment of existing legislation, including regulations that introduce the Schedules described below. Regulation 82 provides for a person included in the register of electors for Gibraltar Parliamentary elections to be treated as if they have made an application for registration in the Gibraltar register for European Parliamentary elections. This will assist eligible Gibraltar electors to vote in the referendum (because, under section 2(1)(c) of the 2015 Act, entitlement to vote in the referendum is extended to certain person entitled to vote in European Parliamentary elections in Gibraltar).

Schedule 1 applies to the referendum (and modifies in their application to the referendum) provisions of the 1983 Act. The 1983 Act is the principal Act that governs parliamentary elections in the United Kingdom. Schedule 1 applies to the referendum provisions about the alteration of electoral registers in the lead up to an election (see paragraphs 4 and 5). It also applies existing electoral offences to the referendum (see paragraphs 13 to 23 and 25 to 32).

In general, the application to the referendum of provisions of the 1983 Act will not affect the referendum so far as it is held in Gibraltar. However, some 1983 Act provisions are modified to reflect the fact that the referendum is taking place in Gibraltar (see, for example, paragraphs 14, 19, 22, and 23 of Schedule 1). Also, paragraph 9 of Schedule 1 provides for the Secretary of State to give a direction to the Gibraltar registration officer under section 52 of the 1983 Act for the purposes of the referendum in the same way as he may give directions to any other registration officer (and paragraph 3 of Schedule 1 provides for relevant subsections of section 52 to extend to Gibraltar).

The application by Schedule 1 of provisions of the 1983 Act to the referendum is in addition to the provisions of that Act that will apply in any event (because eligibility to vote in the referendum follows from eligibility to vote in elections, including parliamentary elections – see section 2 of the 2015 Act).

Schedule 2 applies to the referendum (and modifies in their application to the referendum) provisions of other statutes. They provide for: the attendance of Electoral Commission representatives at referendum proceedings and observation by them of counting officers' working practices (sections 6A and 6B of the Political Parties, Elections and Referendums Act 2000 (c.41) ("the 2000 Act"); paragraphs 1 and 2 of Schedule 2); accredited observers at certain proceedings of the Chief Counting Officer or a Regional Counting Officer (sections 6C and 6D of the 2000 Act; paragraphs 3 and 4 of Schedule 2); the provision of expenditure information by counting officers to the Electoral Commission (section 9C of the 2000 Act; paragraph 5 of Schedule 2); the use of publicly funded meeting rooms in Gibraltar by designated organisations (paragraph 2(3) of Schedule 12 to the 2000 Act; paragraph 6 of Schedule 2); the use of premises in England and Wales for referendum purposes (section 65(6) of the Local Government Finance Act 1988 (c.41); paragraph 7 of Schedule 2); and the restriction, to constables, of the power of arrest inside a polling station for the offence of personation (section 71 of the Electoral Administration Act 2006 (c.22); paragraph 8 of Schedule 2).

Schedule 3 applies to the referendum (and modifies in their application to the referendum) provisions of existing regulations.

Part 1 of Schedule 3 makes provision about the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) and the Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497). Part 2 makes provision about the Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741). The three sets of regulations comprise the principal secondary legislation that governs parliamentary elections in the United Kingdom. They prescribe additional detailed rules about absent voting (including about applications to vote by post or proxy and the issue of postal ballots) and access to documents after the referendum. The application, by Schedule 3, of provisions of the regulations to the referendum is in addition to provision of those regulations that will apply in any event.

Part 3 of Schedule 3 applies to the referendum provisions of planning regulations controlling the display of advertisements, with the effect that advertisements relating to the referendum are governed by the same rules as advertisements relating to a pending parliamentary election (see paragraphs 109 to 111 of Schedule 3). Part 3 also applies for the purposes of the referendum regulations providing for persons who have a right of audience before a Gibraltar court or a right to conduct litigation in Gibraltar to have a right of audience before, or right to conduct litigation in, a court in England and Wales (see paragraph 116 of Schedule 3). Part 3 modifies for the purposes of the referendum regulation 2 of the Representation of the People (Provision of Information Regarding Proxies) Regulations 2013 (S.I. 2013/3199) to provide for the sharing of information between registration officers so that they may verify that a proposed proxy in Great Britain is registered as an elector (as required by regulations 64(3) and 65(3) above). Finally, Part 3 of Schedule 3 applies and modifies for the purposes of the referendum regulation 107 of the European Parliamentary Elections Regulations 2004 (S.I. 2004/293) with the effect that a person convicted of a corrupt or illegal practice under Gibraltar conduct law is subject to the same incapacities as apply to a person convicted under those regulations.

Schedule 4 contains referendum forms, which are referred to in Part 2 of the Regulations and the absent voting rules (in Part 3 of the Regulations).

A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sectors is foreseen.