

SCHEDULE 1

APPLICATION OF PROVISIONS OF THE REPRESENTATION OF THE PEOPLE ACT 1983

PART 2

APPLICATION OF PROVISIONS

Other voting offences

14.—(1) Section 61 of the 1983 Act⁽¹⁾ applies for the purposes of the referendum but with the modifications in sub-paragraphs (2) to (4) below.

(2) For the purposes of the referendum, the following subsections are to be treated as substituted for subsections (1) to (4)—

“(1) A person shall be guilty of an offence if—

- (a) he votes in person or by post, whether on his own behalf or as proxy, or applies to vote by proxy or by post on his own behalf, knowing that he is subject to a legal incapacity to vote; or
- (b) he applies for the appointment of a proxy to vote for him knowing that he is or the person to be appointed is subject to a legal incapacity to vote; or
- (c) he votes, whether in person or by post, as proxy for some other person knowing that that person is subject to a legal incapacity to vote.

For the purposes of this subsection references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day, include his being below voting age if he will be of voting age on that day.

(2) A person shall be guilty of an offence if—

- (a) he votes on his own behalf otherwise than by proxy more than once; or
- (b) he votes on his own behalf in person when he is entitled to vote by post; or
- (c) he votes on his own behalf in person knowing that a person appointed to vote as his proxy either has already voted in person or is entitled to vote by post; or
- (d) he applies under Part 3 of the European Union Referendum (Conduct) Regulations 2016 for a person to be appointed as his proxy to vote for him without applying for the cancellation of a previous appointment of a third person then in force under that Part or without withdrawing a pending application for such an appointment.

(3) A person shall be guilty of an offence if—

- (a) he votes as proxy for the same person more than once; or
- (b) he votes in person as proxy for another person and he is entitled to vote by post as proxy for that person; or
- (c) he votes in person as proxy for another person and he knows that other person has already voted in person.

⁽¹⁾ Section 61 was amended by paragraph 2 of Schedule 2 to the Representation of the People Act 1985 (c.50); paragraph 83 of Schedule 27 to the Civil Partnership Act 2004 (c.33); and section 38(3) of the Electoral Administration Act 2006 (c.22). There are other amendments that are not relevant to these Regulations.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Union Referendum (Conduct) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) A person shall also be guilty of an offence if he votes as proxy for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.”

(3) Subsection (6A) has effect for the purposes of the referendum as if for the words from “in pursuance of” to the end there were substituted “in reliance on Case 3, 4, 5 or 6 in regulation 37 of the European Union Referendum (Conduct) Regulations 2016”.

(4) For the purposes of the referendum the following are to be treated as omitted—

- (a) subsection (6B);
- (b) subsection (7)(b).

(5) Paragraph 2(1) of this Schedule (meaning of “vote”) does not apply for the purposes of—

- (a) subsection (2)(a) and (c), or
- (b) subsection (3)(a) and (c),

of section 61 of the 1983 Act as applied by this paragraph, and in those provisions “vote” is to be read in accordance with sub-paragraphs (6) and (7).

(6) In subsections (2)(a) and (3)(a) “vote” means vote in the referendum (and does not exclude voting in Gibraltar).

(7) In subsections (2)(c) and (3)(c)—

- (a) references to voting in person are to voting in the referendum in person either in the United Kingdom or Gibraltar, and
- (b) references to voting by post are to voting in the referendum by post, either under the law of the United Kingdom relating to postal voting or under the law of Gibraltar relating to postal voting.

(8) But—

- (a) a person does not commit an offence under subsection (2)(a) or (3)(a) of section 61 of the 1983 Act as applied by this paragraph unless at least one of the votes mentioned in subsection (2)(a) or (3)(a) (as the case may be) is a vote in the United Kingdom;
- (b) a person does not commit an offence under subsection (2)(c) of section 61 of the 1983 Act as so applied unless either or both of the following apply—
 - (i) the person’s vote on his own behalf is a vote in person in the United Kingdom;
 - (ii) the proxy’s vote (or entitlement to a postal vote) is a vote in (or an entitlement to a postal vote in) the United Kingdom;
- (c) a person does not commit an offence under subsection (3)(c) of section 61 of the 1983 Act as so applied unless at least one of the votes mentioned in subsection (3)(c) is a vote in person in the United Kingdom.

(9) In sub-paragraph (6) the reference to voting “in Gibraltar” is to voting—

- (a) in person in Gibraltar, or
- (b) by post under the law of Gibraltar relating to postal voting,

and in sub-paragraph (8) references to a vote “in the United Kingdom” are to be read accordingly.

Commencement Information

II Sch. 1 para. 14 in force at 26.2.2016, see [reg. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Union Referendum (Conduct) Regulations 2016. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulations modified by [S.I. 2016/220 art. 4\(4\)Sch. 2](#)
- Regulations power to modify conferred by [S.I. 2016/220 art. 3Sch. 1](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 4(1)(ca) inserted by [S.I. 2016/636 reg. 3\(2\)\(a\)](#)