
DRAFT STATUTORY INSTRUMENTS

2016 No.

The European Union Referendum (Conduct) Regulations 2016

PART 2

REGULATIONS FOR THE CONDUCT OF THE
REFERENDUM IN THE UNITED KINGDOM

Disposal of documents

Sealing up of ballot papers

55.—(1) On the completion of the counting the counting officer must seal up in separate packets—

- (a) the counted ballot papers, and
- (b) the rejected ballot papers.

(2) The counting officer may not open the sealed packets of—

- (a) tendered ballot papers,
- (b) tendered postal ballot papers (in Northern Ireland),
- (c) the completed corresponding number lists,
- (d) certificates as to employment on duty on the day of the poll, or
- (e) marked copies of the registers of electors (including any marked copy notices issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act) and lists of proxies.

Delivery or retention of documents

56.—(1) The counting officer must endorse on each of the sealed packets a description of its contents and the name of the voting area and must—

- (a) in the case of a counting officer for a voting area in England and Wales, forward the documents specified in paragraph (2) to the registration officer of the local authority in whose area that voting area is situated;
- (b) in the case of a counting officer for a voting area in Scotland or the counting officer for Northern Ireland, retain the documents.

(2) The documents referred to above are—

- (a) the packets of ballot papers;
- (b) the ballot paper accounts and the statements of—
 - (i) rejected ballot papers, and
 - (ii) the result of the verification of the ballot paper accounts;
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, the lists

maintained under regulation 42 and the declarations made by the companions of voters with disabilities;

- (d) in the case of the counting officer for Northern Ireland, the tendered postal votes list;
- (e) the packets of the completed corresponding number lists;
- (f) the packets of certificates as to employment on duty on the day of the poll;
- (g) the packets containing marked copies of the registers (including any marked copy notices issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act) and marked copies of the postal voters list, of lists of proxies and of the proxy postal voters list;
- (h) any other documents prescribed for the purposes of this paragraph by the relevant postal voting provisions.

(3) In paragraph (1) “local authority” has the same meaning as in paragraph 6 of Schedule 3 to the 2015 Act.

Orders for production of documents

57.—(1) The High Court or county court or, in the case of a voting area in Scotland, the Court of Session or sheriff, may make an order—

- (a) for the inspection or production of any rejected ballot papers in the custody of a registration officer or (as the case may be) a counting officer,
- (b) for the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on duty on the day of the poll, or
- (c) for the inspection of any counted ballot papers in the officer’s custody,

if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of proceedings brought as mentioned in paragraph 19 of Schedule 3 to the 2015 Act.

(2) An order under this regulation may be made subject to whatever conditions the court or sheriff thinks expedient as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection, or
- (d) production or opening.

(3) In making and carrying into effect an order for the opening of a packet of the completed corresponding number lists or of certificates or for the inspection of counted ballot papers, care must be taken to avoid disclosing the way in which the vote of any particular voter has been given until it has been proved—

- (a) that the vote was given, and
- (b) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the High Court from any order of the county court under this regulation, and to the Court of Session from any order of the sheriff under this regulation.

(5) A power given under this regulation to a court (other than a county court in Northern Ireland) or the sheriff may be exercised by any judge of the court, or by the sheriff, otherwise than in open court.

(6) A power given under this regulation to a county court in Northern Ireland may be exercised in whatever manner rules of court provide.

(7) Where an order is made for the production by a registration officer or a counting officer of a document in the officer's possession relating to the referendum—

- (a) the production by the officer or the officer's agent of the document ordered in the manner directed by the order is conclusive evidence that the document relates to the referendum;
- (b) any endorsement on any packet of ballot papers so produced is prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(8) The production from proper custody of—

- (a) a ballot paper purporting to have been used at the referendum, and
- (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

is prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry on the register of electors (or on a notice issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act) at the time of the referendum contained the same number as the number written as mentioned in sub-paragraph (b).

(9) Except as provided by this regulation (or a court order) nobody may—

- (a) inspect any rejected or counted ballot papers in the possession of a registration officer or counting officer, or
- (b) open any sealed packets of the completed corresponding number lists or of certificates.

Retention and public inspection of documents

58.—(1) A registration officer or (as the case may be) counting officer must retain for a year all documents relating to the referendum and then, unless otherwise directed by an order of a competent court, must have them destroyed.

(2) For the purposes of paragraph (1) a competent court is—

- (a) in relation to a registration officer in England and Wales, the High Court, the Crown Court or a magistrates' court;
- (b) in relation to a counting officer in Scotland, the Court of Session;
- (c) in relation to the counting officer for Northern Ireland, the High Court.

(3) While documents are retained under paragraph (1) they must be open to public inspection.

This does not apply to—

- (a) ballot papers;
- (b) the completed corresponding number lists;
- (c) certificates as to employment on duty on the day of the poll.

(4) The registration officer or (as the case may be) counting officer must, on request, supply to any person copies of or extracts from any description of the documents open to public inspection that is prescribed by the relevant regulations.

(5) A right to inspect or be supplied with a document or part of a document under this regulation is subject to—

- (a) any conditions imposed by the relevant regulations, and
- (b) the payment of any fee required by the relevant regulations.