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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

*Application and interpretation*

**Part to apply in United Kingdom and not Gibraltar**

4. This Part applies in England and Wales, Scotland and Northern Ireland (and not in Gibraltar).

**Interpretation**

5. In this Part(1)—

“anonymous entry”, in relation to a register of electors, is to be read in accordance with section 9B of the 1983 Act(2);

“ballot paper account” has the meaning given by regulation 44(6);

“certificate as to employment on duty on the day of the poll” has the meaning given by regulation 26(4);

“companion” has the meaning given by regulation 36(1);

“the completed corresponding number lists” has the meaning given by regulation 44(1)(e);

“counting agent” is to be read in accordance with regulation 23(10);

“declaration made by the companion of a voter with disabilities” has the meaning given by regulation 36(2)(c);

“declaration of identity” is to be read in accordance with regulation 17(1)(c);

“elector” means a person who is entitled to vote on his or her own behalf in the referendum;

“list of proxies”—

(a) in relation to England and Wales and Scotland, means the list kept under regulation 63(3);

(b) in relation to Northern Ireland, means the list kept under regulation 74(3);

“the list of voters with disabilities assisted by companions” has the meaning given by regulation 36(8);

“the list of votes marked by the presiding officer” has the meaning given by regulation 35(4);

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(1) Other terms used in this Part are defined in section 11 of the 2015 Act.

(2) 1983 c.2. “1983 Act” is defined in section 11(1) of the 2015 Act. Section 9B was inserted by section 10(1) of the Electoral Administration Act 2006 (c.22) and was amended by section 20(a) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14); paragraphs 1 and 7 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c.6); and article 3 of S.I. 2014/1116.

- “official mark” has the meaning given by regulation [12\(1\)](#);
- “parliamentary polling district” means a polling district for parliamentary elections (see sections 18A and 18AA of the 1983 Act**(3)**);
- “parliamentary polling place”, in relation to a parliamentary polling district, means the polling place designated for that district in accordance with section 18B of the 1983 Act**(4)**;
- “peer” means a peer who is a member of the House of Lords;
- “polling agent” is to be read in accordance with regulation [23\(10\)](#);
- “postal voters list”—
- (a) in relation to England and Wales and Scotland, means the list kept under regulation [63\(2\)](#);
  - (b) in relation to Northern Ireland, means the list kept under regulation [74\(2\)](#);
- “postal voting statement” is to be read in accordance with regulation [17\(1\)\(b\)](#);
- “presiding officer” is to be read in accordance with regulation [19\(1\)](#) and [\(2\)](#);
- “proxy postal voters list”—
- (a) in relation to England and Wales and Scotland, means the list kept under regulation [66\(6\)](#);
  - (b) in relation to Northern Ireland, means the list kept under regulation [77\(8\)](#);
- “referendum agent” means a person appointed under paragraph 15 of Schedule 1 to the 2015 Act;
- “the relevant postal voting provisions”—
- (a) in relation to England and Wales, means Part 5 of the Representation of the People (England and Wales) Regulations 2001**(5)** as applied by Part 1 of Schedule 3;
  - (b) in relation to Scotland, means Part 5 of the Representation of the People (Scotland) Regulations 2001**(6)** as so applied;
  - (c) in relation to Northern Ireland, means Part 5 of the Representation of the People (Northern Ireland) Regulations 2008**(7)** as applied by Part 2 of Schedule 3;
- “the relevant regulations”—
- (a) in relation to England and Wales, means the Representation of the People (England and Wales) Regulations 2001**(8)** as applied by Part 1 of Schedule 3;
  - (b) in relation to Scotland, means the Representation of the People (Scotland) Regulations 2001**(9)** as so applied;
  - (c) in relation to Northern Ireland, means the Representation of the People (Northern Ireland) Regulations 2008**(10)** as applied by Part 2 of Schedule 3;
- “a spoilt ballot paper” has the meaning given by regulation [41\(1\)\(a\)](#);
- “tendered ballot paper” has the meaning given by regulation [37\(1\)](#);

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(3) Section 18A was inserted by section 16 of the Electoral Administration Act 2006 (c.22) and was amended by article 9(1) and (2) of S.I. 2013/3156. Section 18AA was inserted by article 9(1) and (3) of S.I. 2013/3156.

(4) Section 18B was inserted by section 16 of the Electoral Administration Act 2006 (c.22).

(5) S.I. 2001/341. Part 5 was amended by S.I. 2006/752; 2006/2910; 2011/2085; and 2013/3198.

(6) S.I. 2001/497. Part 5 was amended by S.I. 2006/834; 2007/925; 2008/305; 2010/980; 2011/2085; and 2013/3206.

(7) S.I. 2008/1741. Part 5 was amended by S.I. 2010/278; 2011/2085; and 2014/1808.

(8) Relevant amendments were made by paragraph 2 of Schedule 1 to the Counter-Terrorism Act 2008 (c.28); S.I. 2001/1700; 2002/1871; 2006/752; 2006/2910; 2007/1025; 2008/1901; 2011/2085; 2013/591; 2013/3198; 2014/1234; 2014/3161; 2014/3163; 2015/467; 2015/643; and 2015/1376.

(9) Relevant amendments were made by paragraph 2 of Schedule 1 to the Counter-Terrorism Act 2008 (c.28); S.I. 2001/1749; 2002/1872; 2006/834; 2007/925; 2008/305; 2008/1901; 2010/980; 2011/2085; 2013/591; 2013/3206; 2015/450; and 2015/1376.

(10) Relevant amendments were made by section 14 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13); S.I. 2010/278; 2011/2085; and 2014/1808.

“tendered postal ballot paper” has the meaning given by regulation 39(2);  
“the tendered postal votes list” has the meaning given by regulation 39(10);  
“tendered votes list” has the meaning given by regulation 38(7);  
“voter” means a person voting in the referendum and includes a person voting as proxy and  
“vote” (whether noun or verb) is to be construed accordingly; and a reference to an elector voting or an elector’s vote includes a reference to an elector voting by proxy or an elector’s vote given by proxy.

### Time

#### Timetable

6. The proceedings at the referendum are to be conducted in accordance with the following table.

<i>Proceeding</i>	<i>Time</i>
Publication of notice of referendum	Not later than the 25th day before the day of the referendum
Notice of poll	Not later than the 15th day before the day of the referendum
Hours of polling	Between 7am and 10pm on the day of the referendum

#### Computation of time

7.—(1) In calculating any period of time (other than a year) for the purposes of this Part, the following are to be disregarded—

- (a) Saturdays and Sundays,
- (b) Christmas Eve, Christmas Day, Good Friday and any other day that is a bank holiday under the Banking and Financial Dealings Act 1971(11) in any part of the United Kingdom,
- (c) any day that is a bank holiday or public holiday in Gibraltar under the Gibraltar Acts titled the Banking and Financial Dealings Act(12) and the Interpretation and General Clauses Act(13), and
- (d) any day appointed in any part of the United Kingdom or Gibraltar as a day of public thanksgiving or mourning.

(2) In relation to proceedings adjourned by a presiding officer under regulation 43 (riot or open violence)—

- (a) the reference in paragraph (1)(b) to a day that is a bank holiday in any part of the United Kingdom is to be read as a reference to a day that is a bank holiday in the part of the United Kingdom where the proceedings are adjourned (“the relevant part of the United Kingdom”),
- (b) paragraph (1)(c) is to be treated as omitted, and
- (c) the reference in paragraph (1)(d) to a day that is appointed as a day of public thanksgiving or mourning in any part of the United Kingdom or Gibraltar is to be read as a reference to a day that is appointed as a day of public thanksgiving or mourning in the relevant part of the United Kingdom.

(11) 1971 c.80. See section 1 and Schedule 1.

(12) Gibraltar Principal Act 1973-20.

(13) Gibraltar Principal Act 1962-08.

## General provisions

### Notice of referendum

8. Each counting officer must give public notice of the referendum stating—
- (a) the date of the poll;
  - (b) the date by which—
    - (i) applications to vote by post or by proxy, and
    - (ii) other applications and notices about postal or proxy voting,must reach the registration officer in order that they may be effective for the referendum.

### Poll to be taken by ballot

9. The votes at the poll are to be given by ballot.

### The ballot paper

- 10.—(1) The ballot of every voter is to consist of a ballot paper, which is to be printed in the form set out in Form 1 in Schedule 4 according to the directions specified in that Schedule.
- (2) Each ballot paper—
- (a) must set out the question and the alternative answers to that question as specified in section 1 of the 2015 Act;
  - (b) must be capable of being folded up; and
  - (c) must have a number and other unique identifying mark printed on the back.

### Corresponding number list

- 11.—(1) The counting officer must prepare a list containing the numbers and other unique identifying marks of all of the ballot papers to be—
- (a) issued by the officer in pursuance of regulation 17(1), or
  - (b) provided by the officer in pursuance of regulation 22(1).
- (2) The list must be in the form set out in Form 2 in Schedule 4.

### The official mark

- 12.—(1) Every ballot paper must contain an appropriate security marking (referred to in these Regulations as the “official mark”).
- (2) The official mark must be kept secret.
  - (3) The counting officer may use a different official mark for different purposes.

### Prohibition of disclosure of vote

13. A person who has voted in the referendum may not be required, in any legal proceeding to question the referendum, to state for which answer he or she voted.

### Use of schools and public rooms

- 14.—(1) The counting officer may use, free of charge, for the purpose of taking the poll—
- (a) a room in a school within paragraph (3);

- (b) a room the expense of maintaining which is met by any local authority (in England and Wales or Scotland) or is payable out of any rate (in Northern Ireland).
- (2) The counting officer must—
  - (a) make good any damage done to any such room, and
  - (b) defray any expense incurred by the persons having control over any such room,by reason of its being used for that purpose.
- (3) The schools within this paragraph are—
  - (a) in England and Wales—
    - (i) a school maintained or assisted by a local authority;
    - (ii) a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
  - (b) in Scotland, a school that is not an independent school within the meaning of the Education (Scotland) Act 1980<sup>(14)</sup>;
  - (c) in Northern Ireland, a school in receipt of a grant out of moneys appropriated by Act of the Northern Ireland Assembly, other than a school that—
    - (i) adjoins or is adjacent to a church or other place of worship, or
    - (ii) is connected with a nunnery or other religious establishment.

### Modification of forms

**15.**—(1) The Chief Counting Officer may, for the purpose of making a relevant form easier for voters to understand or use, specify modifications that are to be made to the wording or appearance of the form.

- (2) In paragraph (1) “relevant form” means any of the following—
  - (a) the forms in Schedule 4, except Forms 1 (ballot paper), 2 (corresponding number list), 13 (corresponding number list for use in polling stations), 16 (certificate of employment Great Britain) or 17 (certificate of employment Northern Ireland);
  - (b) the forms of the notices set out in regulation 22<sup>(8)</sup>.

(3) In these Regulations a reference to such a form is to be read as a reference to that form with any modifications specified under paragraph (1).

(4) Where a form is modified by virtue of paragraph (1), section 26(2) of the Welsh Language Act 1993<sup>(15)</sup> applies as if the modified form were specified by these Regulations<sup>(16)</sup>.

### *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.

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<sup>(14)</sup> 1980 c.44. See section 135.

<sup>(15)</sup> 1993 c.38.

<sup>(16)</sup> See section 9(6) of the 2015 Act.

(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(17) (registration of British citizens overseas), or
- (b) a declaration made by virtue of subsection (5) of section 3 of that Act(18) (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;

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(17) 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).

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

- (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;
  - (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(19) or (as the case may be) section 6 of the Representation of the People Act 1985(20) 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(21) 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

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(19) 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).

(20) 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.

(21) 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.

paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004<sup>(22)</sup> or (as the case may be) regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004<sup>(23)</sup> 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.

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”.

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<sup>(22)</sup> *S.I. 2004/293*. Schedule 2 was substituted by regulation 40 of, and Schedule 3 to, *S.I. 2009/186*.

<sup>(23)</sup> *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*.

(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>(24)</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.

(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.

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<sup>(24)</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).

(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>(25)</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>(26)</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>(27)</sup> (police powers for employees).

#### 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<sup>(3)</sup> and <sup>(5)</sup> 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.

### *The poll*

#### Admission to polling station

**26.—**(1) The presiding officer must exclude from the polling station everyone except—

- (a) voters,
- (b) persons under the age of 18 who accompany voters to the polling station,

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<sup>(25)</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>(26)</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>(27)</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 (c.48); paragraphs 125(1) and (2) of Schedule 7 to the Policing and Crime Act 2009 (c.26); and paragraphs 277 and 292 of the Police Reform and Social Responsibility Act 2011 (c.13).

- (c) the Chief Counting Officer, the Regional Counting Officer (in the case of a polling station in a region for which a Regional Counting Officer is appointed) and the counting officer,
  - (d) the referendum agents,
  - (e) the polling agents appointed to attend at the polling station,
  - (f) the clerks appointed to attend at the polling station,
  - (g) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Act<sup>(28)</sup>,
  - (h) the constables on duty, and
  - (i) the companions of voters with disabilities attending at the polling station.
- (2) The presiding officer must regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.
- (3) No more than one polling agent may be admitted at the same time to a polling station on behalf of the same referendum agent.
- (4) A constable or person employed by a counting officer may be admitted to vote in person elsewhere than at the polling station allotted under this Part only on production and surrender of a certificate (referred to in this Part as a “certificate as to employment on duty on the day of the poll”) that—
- (a) confirms that the person is a constable or, as the case may be, is employed by a counting officer,
  - (b) is in the form set out in Form 16 in Schedule 4 (for a person in Great Britain) or Form 17 in that Schedule (for a person in Northern Ireland), and
  - (c) is signed—
    - (i) in the case of a certificate for a person in Great Britain, by an officer of police of or above the rank of inspector or, as the case may be, by the counting officer, or
    - (ii) in the case of a certificate for a person in Northern Ireland, by an officer of the Police Service of Northern Ireland of or above the rank of chief inspector or, as the case may be, by the counting officer.
- (5) A certificate surrendered under this regulation must be cancelled immediately.
- (6) 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 (police powers for employees).

### Keeping of order in polling station

- 27.**—(1) It is the presiding officer’s duty to keep order at the officer’s polling station.
- (2) If a person engages in misconduct in a polling station or fails to obey the presiding officer’s lawful orders, the person may immediately, by the presiding officer’s order, be removed from the polling station—
- (a) by a constable, or
  - (b) by any other person authorised in writing by the counting officer to discharge this function.
- (3) A person so removed may not, without the presiding officer’s permission, re-enter the polling station that day.
- (4) The powers conferred by this regulation may not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity to vote at that station.

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<sup>(28)</sup> 2000 c.41. “2000 Act” is defined in section 11(1) of the 2015 Act. Sections 6A to 6D of the 2000 Act were inserted by section 29 of the Electoral Administration Act 2006 (c.22). There are amendments to sections 6A to 6D which are not relevant to these Regulations.

### Sealing of ballot boxes

**28.**—(1) Immediately before the commencement of the poll, the presiding officer must show anyone present in the polling station that the ballot box is empty.

(2) The presiding officer must then—

- (a) lock the box (if it has a lock) and place his or her seal on it in a manner that prevents it from being opened without breaking the seal, and
- (b) place the box in his or her view for the receipt of ballot papers, and keep it so locked (if it has a lock) and sealed.

### Questions to be put to voters

**29.**—(1) When an application is made for a ballot paper (but not afterwards), the questions specified in the second column of the table following paragraph (4)—

- (a) may be put by the presiding officer to a person who is mentioned in the first column, and
- (b) must be put if the letter “R” appears after the question and a referendum or polling agent requires the question to be put.

(2) In the case of a voter in respect of whom a notice has been issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act, references in the table to reading from the register are to be read as references to reading from that notice.

(3) A ballot paper must not be delivered to any person required to answer any of the questions in the table unless the person has answered each question satisfactorily.

(4) Except as authorised by this regulation, no inquiry is permitted as to the right of any person to vote.

<i>Person applying for ballot paper</i>	<i>Questions</i>
(1) A person applying as an elector	<ul style="list-style-type: none"> <li>(a) “Are you the person registered in the register of electors as follows (read out the whole entry from the register)?” [R]</li> <li>(b) “Have you already voted in the referendum on the United Kingdom’s membership of the European Union, here or elsewhere, otherwise than as proxy for some other person?” [R]</li> <li>(c) In Northern Ireland, “What is your date of birth?”</li> </ul>
(2) A person applying as proxy	<ul style="list-style-type: none"> <li>(a) “Are you the person whose name appears as A B in the list of proxies for the referendum on the United Kingdom’s membership of the European Union as entitled to vote as proxy on behalf of C D?” [R]</li> <li>(b) “Have you already voted in the referendum on the United Kingdom’s membership of the European Union, here or elsewhere, as proxy on behalf of C D?” [R]</li> <li>(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of C D?” [R]</li> </ul>
(3) A person applying in England and Wales or Scotland as proxy for	(a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the

<i>Person applying for ballot paper</i>	<i>Questions</i>
an elector with an anonymous entry (instead of the questions at entry (2))	register of electors is (read out the number from the register)?” [R]
	(b) “Have you already voted in the referendum on the United Kingdom’s membership of the European Union, here or elsewhere, as proxy on behalf of the elector whose number on the register of electors is (read out the number from the register)?” [R]
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of the person whose number on the register of electors is (read out the number from the register)?” [R]
(4) Person applying as proxy if the question at entry (2)(c), or (3)(c) (if applicable), is not answered in the affirmative	“Have you already voted in the referendum on the United Kingdom’s membership of the European Union on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild?” [R]
(5) A person applying as an elector in relation to whom there is an entry in the postal voters list	(a) “Did you apply to vote by post?” (b) “Why have you not voted by post?”
(6) A person applying as proxy who is named in the proxy postal voters list	(a) “Did you apply to vote by post as proxy?” (b) “Why have you not voted by post as proxy?”

### Challenge of voter

**30.** A person is not to be prevented from voting by reason only that—

- (a) a referendum or polling agent declares that there is reasonable cause to believe that the person has committed an offence of personation, or
- (b) the person is arrested on suspicion of committing or of being about to commit an offence of personation.

### Voting procedure

**31.** A ballot paper must be delivered to a voter who applies for one, subject to any provision of this Part to the contrary.

**32.—**(1) In Northern Ireland a ballot paper must not be delivered to a voter unless the voter has produced a specified document to the presiding officer or a clerk.

(2) A clerk or presiding officer in Northern Ireland to whom a specified document is produced must not deliver a ballot paper to the voter if the clerk or officer decides that—

- (a) the document raises a reasonable doubt as to whether the voter is the elector or proxy he or she claims to be, or
- (b) the apparent age of the voter as compared with the date of birth supplied in pursuance of section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act<sup>(29)</sup> raises a reasonable doubt as to whether the voter is the elector or proxy he or she claims to be.

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<sup>(29)</sup> Section 10 was substituted, and sections 10A and 13A were inserted, by paragraphs 1, 4 and 6 of Schedule 1 to the Representation of the People Act 2000 (c.2). Subsection (4A) of section 10, subsection (1A) of section 10A and

(3) Where such a decision is made by a clerk, the clerk must refer the case to the presiding officer, who must deal with it under this regulation as if the specified document had been produced to the officer in the first place.

The presiding officer must deal with the case in person (and accordingly regulation 19(3) does not apply).

(4) For the purposes of this regulation a specified document is one that for the time being falls within the following list—

- (a) a licence to drive a motor vehicle if the licence bears the photograph of the person to whom it is issued;
- (b) a passport issued by the Government of the United Kingdom or by the Government of the Republic of Ireland;
- (c) an electoral identity card, issued under section 13C of the 1983 Act<sup>(30)</sup>;
- (d) a Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;
- (e) a Blind Person’s SmartPass, issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;
- (f) a War Disabled SmartPass, issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;
- (g) a 60+ SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st October 2008.

(5) In paragraph (4)(a) “licence to drive a motor vehicle” means a licence granted under—

- (a) Part 3 of the Road Traffic Act 1972<sup>(31)</sup> or Part 3 of the Road Traffic Act 1988<sup>(32)</sup>, or
- (b) the Road Traffic (Northern Ireland) Order 1981<sup>(33)</sup>,

and includes a Community licence within the meaning of those enactments.

(6) References in this regulation to producing a document are to producing it for inspection.

**33.**—(1) This regulation applies where there is a duty to deliver a ballot paper to a voter under regulation 31.

(2) Immediately before delivery of the ballot paper—

- (a) the number and (unless paragraph (3) applies) name of the elector as stated in the copy of the register of electors must be called out;
- (b) the number of the elector must be marked on the list mentioned in regulation 22(3)(d) beside the number of the ballot paper to be issued to the elector;
- (c) a mark must be placed in the register of electors against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received;
- (d) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against the person’s name in the list of proxies.

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subsection (2A) of section 13A were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13). Section 10(4A) was amended by paragraph 9(1) and (6) of Schedule 4 to the Electoral Registration and Administration Act 2013 (c.6).

<sup>(30)</sup> Section 13C was inserted by section 4 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13).

<sup>(31)</sup> 1972 c.20. This Act was repealed by the Road Traffic (Consequential Provisions) Act 1988 (c.54).

<sup>(32)</sup> 1988 c.52.

<sup>(33)</sup> S.I. 1981/154.

(3) An elector who has an anonymous entry in a register maintained by a registration officer in Great Britain must show the presiding officer his or her official poll card and only the number is to be called out in pursuance of paragraph (2)(a).

(4) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act—

- (a) the reference in paragraph (2)(a) to the copy of the register of electors is to be read as a reference to the copy of the notice;
- (b) the reference in paragraph (2)(c) to a mark being placed in the register of electors is to be read as a reference to a mark being made on the copy of the notice.

**34.—**(1) Immediately after receiving a ballot paper the voter must—

- (a) proceed into one of the compartments in the polling station and there secretly mark the paper and fold it up so as to conceal the vote, and then
- (b) show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and put the ballot paper so folded up into the ballot box in the presiding officer's presence.

(2) The voter must vote without undue delay, and must leave the polling station as soon as he or she has put the ballot paper into the ballot box.

(3) A voter who at the close of the poll is in the polling station, or in a queue outside the polling station, for the purpose of voting is (despite the close of the poll) entitled to apply for a ballot paper under regulation 31; and this Part applies in relation to the voter accordingly.

#### **Votes marked by presiding officer**

**35.—**(1) This regulation applies where a voter applies to the presiding officer to mark the voter's ballot paper and the voter—

- (a) is incapacitated by blindness or other disability from voting in the manner directed by this Part, or
- (b) declares orally that he or she is unable to read.

(2) The presiding officer must, in the presence of the polling agents—

- (a) cause the voter's vote to be marked on a ballot paper in the manner directed by the voter, and
- (b) cause the ballot paper to be placed in the ballot box,

but in Northern Ireland this is subject to paragraph (3).

(3) In the case of a voter who makes an application in Northern Ireland under this regulation, regulation 32 applies as if the references to delivering a ballot paper were references to causing the voter's vote to be marked on the ballot paper.

(4) The name of every voter whose vote is marked in pursuance of this regulation must be entered on a list (called in this Part "the list of votes marked by the presiding officer"), together with—

- (a) the voter's number on the register of electors, and
- (b) the reason for the vote being marked in pursuance of this regulation.

(5) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name is the elector's number.

(6) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act, the reference in paragraph (4)(a) to the voter's number on the register of electors is to be read as a reference to the number relating to the voter on the notice.

## Voting by people with disabilities

36.—(1) Paragraph (2) applies where a voter applies to the presiding officer, on the ground of blindness or other disability or inability to read, to be allowed to vote with the assistance of an accompanying person (referred to in this Part as the “companion”).

- (2) The presiding officer must grant the application if—
- (a) the voter makes an oral or written declaration that he or she is so incapacitated by blindness or other disability, or by an inability to read, as to be unable to vote without assistance,
  - (b) the presiding officer is satisfied that the voter is so incapacitated, and
  - (c) the presiding officer is satisfied by a written declaration made by the companion (referred to in this Part as a “declaration made by the companion of a voter with disabilities”) that the companion—
    - (i) is a person qualified to assist the voter, and
    - (ii) has not previously assisted more than one voter with disabilities to vote in the referendum,

but in Northern Ireland this paragraph is subject to paragraph (3).

(3) In the case of a voter who makes an application in Northern Ireland under this regulation, regulation 32 applies as if the references to delivering a ballot paper were references to granting the voter’s application.

(4) For the purposes of paragraph (2)(c) a person is qualified to assist a voter with disabilities to vote if the person—

- (a) is entitled to vote as an elector in the referendum, or
- (b) is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years.

(5) The declaration made by the companion—

- (a) must be in the form set out in Form 18 in Schedule 4 (for a companion in Great Britain) or Form 19 in that Schedule (for a companion in Northern Ireland),
- (b) must be made before the presiding officer at the time when the voter applies to vote with the assistance of the companion, and
- (c) must be given immediately to the presiding officer,

and the presiding officer must attest and retain the declaration.

(6) No fee or other payment may be charged in respect of the declaration.

(7) If the presiding officer grants an application under this regulation, anything which is by this Part required to be done to or by the voter in connection with the giving of his or her vote may be done to, or with the assistance of, the companion.

(8) The name of every voter whose vote is given in accordance with this regulation must be entered on a list (referred to in this Part as “the list of voters with disabilities assisted by companions”) together with—

- (a) the voter’s number on the register of electors, and
- (b) the name and address of the companion.

(9) In the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name is the elector’s number.

(10) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act, the reference in paragraph (8)(a) to the voter’s number on the register of electors is to be read as a reference to the number relating to the voter on the notice.

(11) For the purposes of this Part a person is a voter with disabilities if the person has made a declaration under this regulation.

### **Tendered ballot papers**

**37.**—(1) In the following cases a person is entitled to mark a ballot paper (referred to in this Part as a “tendered ballot paper”) in the same manner as any other voter if—

- (a) in cases 1 to 7, the person satisfactorily answers the questions permitted by law to be asked at the poll;
- (b) in case 8, the person satisfactorily answers the questions permitted by law to be asked at the poll other than the question at entry (1)(c) in the table in regulation 29.

Regulation 38 makes further provision about tendered ballot papers.

(2) Case 1 is that—

- (a) a person applies for a ballot paper,
- (b) the person claims—
  - (i) to be a particular elector named on the register, and
  - (ii) not to be named in the postal voters list or the list of proxies, and
- (c) another person has already voted in person either as that elector or as proxy for that elector.

(3) Case 2 is that—

- (a) a person applies for a ballot paper,
- (b) the person claims to be—
  - (i) a particular person named in the list of proxies as proxy for an elector, and
  - (ii) not entitled to vote by post as proxy, and
- (c) another person has already voted in person either as that elector or as proxy for that elector.

(4) Regulation 32 applies in relation to a voter in Northern Ireland who seeks to mark a tendered ballot paper in reliance on Case 1 or 2 as it applies in relation to a voter who applies for a ballot paper under regulation 31.

(5) Case 3 is that—

- (a) a person applies for a ballot paper,
- (b) the person claims to be a particular elector named on the register,
- (c) the person is also named in the postal voters list, and
- (d) the person claims not to have made an application to vote by post.

(6) Case 4 is that—

- (a) a person applies for a ballot paper,
- (b) the person claims to be a particular person named as a proxy in the list of proxies,
- (c) the person is also named in the proxy postal voters list, and
- (d) the person claims not to have made an application to vote by post as proxy.

(7) Case 5 is that, before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper—

- (a) a person claims to be a particular elector named on the register and also named in the postal voters list, and
- (b) the person claims to have lost or not received the postal ballot paper.

(8) Case 6 is that, before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper—

- (a) a person claims to be a particular person named as a proxy in the list of proxies and also named in the proxy postal voters list, and
- (b) the person claims to have lost or not received the postal ballot paper.

(9) Case 7 is that—

- (a) a person applies for a ballot paper in Northern Ireland, and
- (b) there has been a refusal under paragraph (2) of regulation 32 (including that paragraph as applied by regulation 35 or 36 or this regulation) by a presiding officer.

(10) Case 8 is that—

- (a) a person applies for a ballot paper in Northern Ireland, and
- (b) the person fails to answer the question at entry 1(c) in the table in regulation 29 satisfactorily.

(11) In the case of an elector who has an anonymous entry, the references in this regulation to a person named on a register or list are to be read as references to a person whose number appears on the register or list (as the case may be).

(12) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act, the references in this regulation to a person named on the register are to be read as references to a person in respect of whom such a notice has been issued.

(13) This regulation does not apply in relation to an elector who has an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland.

**38.—**(1) Tendered ballot papers must be a different colour from the other ballot papers.

(2) A person in Northern Ireland who marks a tendered ballot paper in reliance on Case 7 or 8 in regulation 37 must sign the paper, unless it is marked after an application was refused under regulation 35 or 36.

(3) If a tendered ballot paper is required to be signed under paragraph (2) and the paper is not signed, the paper is void.

(4) Tendered ballot papers must be given to the presiding officer instead of being put into the ballot box.

(5) On receiving a tendered ballot paper from a voter the presiding officer must endorse it with the voter's name and number on the register of electors.

(6) The presiding officer must set tendered ballot papers aside in a separate packet.

(7) The name and number on the register of electors of every voter whose vote is marked in pursuance of regulation 37 must be entered on a list (referred to in this Part as the "tendered votes list") and the voter must sign the list opposite the entry relating to him or her.

(8) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name is the elector's number.

(9) In the case of an elector who has an anonymous entry, the references in paragraphs (5) and (7) to the name of the voter are to be ignored.

(10) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) or 13BA(9) of the 1983 Act, the references in paragraphs (5) and (7) to the voter's number on the register of electors are to be read as references to the number relating to the voter on the notice.

(11) This regulation does not apply in relation to an elector who has an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland.

### **Tendered postal ballot papers: anonymous entries in Northern Ireland**

**39.**—(1) This regulation applies to a person (“P”) who—

- (a) is an elector with an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland, or
- (b) is entitled to vote by post as a proxy for such an elector,

and who claims to have lost, or not received, a postal ballot paper.

(2) P may apply to the counting officer for a replacement postal ballot paper (referred to in this Part as a “tendered postal ballot paper”).

(3) The application—

- (a) may be made by post or in person,
- (b) must be accompanied by a specified document within the meaning of regulation 32,
- (c) must be delivered to the counting officer—
  - (i) where the application is made by post, before 4pm on the fourth day before the day of the poll, or
  - (ii) where the application is made in person, before 4pm on the day before the day of the poll.

(4) If the counting officer—

- (a) is satisfied as to P’s identity, and
- (b) has no reason to doubt that P has lost, or not received, a postal ballot paper,

the counting officer must issue a tendered postal ballot paper to P in accordance with the relevant postal voting provisions.

(5) A tendered postal ballot paper must be of a different colour from the other ballot papers.

(6) P, if issued with a tendered postal ballot paper, may mark it, sign it, and send it to the counting officer, in the same manner as a postal ballot paper.

(7) A tendered postal ballot paper which has not been signed, or which does not meet the conditions in regulation 46(5) and (6), is void.

(8) On receipt of a tendered postal ballot paper, the counting officer must deal with it in accordance with the relevant postal voting provisions.

(9) The counting officer must—

- (a) endorse each tendered postal ballot paper with the entry in the register of the elector in question, and
- (b) set it aside in a separate packet of tendered postal ballot papers.

(10) The counting officer must add the entry in the register of the elector in question to a list (referred to in this Part as “the tendered postal votes list”).

(11) The counting officer must seal the packet of tendered postal ballot papers.

(12) This regulation applies in the case of a person in respect of whom a notice has been issued under section 13BA(9) of the 1983 Act (alteration of registers in Northern Ireland: pending elections) as if—

- (a) in paragraph (1), for “in a register maintained” there were substituted “in respect of whom a notice under section 13BA(9) of the 1983 Act has been issued”, and
- (b) in paragraphs (9)(a) and (10), for “entry in the register of the elector in question” there were substituted “entry relating to the elector in question on a notice issued under section 13BA(9) of the 1983 Act”.

### **Refusal to deliver ballot paper**

**40.** A decision by a presiding officer taken under paragraph (2) of regulation 32, including that paragraph as applied by regulation 35, 36 or 37, is final (except that it is subject to review in proceedings brought by an application for judicial review).

### **Spoilt ballot papers**

**41.—**(1) This regulation applies if a voter has inadvertently dealt with his or her ballot paper in a manner which means that it cannot conveniently be used as a ballot paper and—

- (a) the voter delivers the ballot paper (referred to in this Part as “a spoilt ballot paper”) to the presiding officer, and
- (b) proves the fact of the inadvertence to the satisfaction of the officer.

(2) The voter may obtain a replacement ballot paper and the spoilt ballot paper must be cancelled immediately.

### **Correction of errors on day of poll**

**42.** The presiding officer must keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13B(3B) or (3D) or 13BA(9) of the 1983 Act that takes effect on the day of the poll.

### **Adjournment of poll in case of riot**

**43.—**(1) Where the proceedings at a polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings till the following day and must give notice to the counting officer as soon as practicable.

(2) Where the poll is adjourned at a polling station—

- (a) the hours of polling on the day to which it is adjourned must be the same as for the original day, and
- (b) references in this Part to the close of the poll are to be read accordingly.

### **Procedure on close of poll**

**44.—**(1) As soon as practicable after the close of the poll, the presiding officer must, in the presence of any polling agents, make up into separate packets—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key (if any) attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the 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 of the list of proxies;
- (e) the lists prepared under regulation 11, including the parts that were completed in accordance with regulation 33(2)(b) (together referred to in this Part as “the completed corresponding number lists”);
- (f) the certificates as to employment on duty on the day of the poll;
- (g) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “disability” and “unable to read”,

the list maintained under regulation 42, and the declarations made by the companions of voters with disabilities.

(2) The 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 of the list of proxies must be in one packet and must not be in the same packet as the completed corresponding number lists or the certificates as to employment on duty on the day of the poll.

(3) The packets must be sealed with—

- (a) the presiding officer’s seal, and
- (b) the seals of any polling agents who want to affix their seals.

(4) The presiding officer must deliver the packets, or cause them to be delivered, to the counting officer to be taken charge of by that officer.

(5) If the packets are not delivered by the presiding officer personally to the counting officer, their delivery must be in accordance with arrangements approved by the counting officer.

(6) The packets must be accompanied by a statement (referred to in this Part as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him or her, and accounting for them under the following heads—

- (a) ballot papers issued and not otherwise accounted for,
- (b) unused ballot papers,
- (c) spoiled ballot papers, and
- (d) tendered ballot papers.

### *Counting of votes*

#### **Attendance at the count**

**45.**—(1) The counting officer must make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll.

(2) The counting officer must give the counting agents notice in writing of the time and place at which the counting of votes will begin.

(3) A person may be present at the counting of the votes only if—

- (a) the person falls within paragraph (4), or
- (b) the person is permitted by the counting officer to attend.

(4) The persons within this paragraph are—

- (a) the Chief Counting Officer, the Regional Counting Officer (where the voting area is in a region for which a Regional Counting Officer is appointed) and the counting officer;
- (b) the counting officer’s clerks;
- (c) the referendum agents;
- (d) the counting agents;
- (e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Act.

(5) The counting officer may give a person permission under paragraph (3)(b) only if—

- (a) the officer is satisfied that the person’s attendance will not impede the efficient counting of the votes, and
- (b) the officer has consulted the referendum agents or thinks it impracticable to do so.

(6) The counting officer must give the counting agents—

- (a) whatever reasonable facilities for overseeing the proceedings, and
- (b) whatever information with respect to the proceedings,

the officer can give them consistently with the orderly conduct of the proceedings and the discharge of the officer's duties.

(7) In particular, where the votes are counted by sorting the ballot papers according to the answer for which the vote is given and then counting the number of ballot papers for each answer, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted.

### The count

**46.**—(1) The counting officer must—

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;
- (b) in the presence of the referendum agents verify each ballot paper account;
- (c) count the postal ballot papers that have been duly returned and record the number counted.

(2) The counting officer must not count the votes given on any ballot papers until—

- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
- (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.

(3) In England and Wales and Scotland, a postal ballot paper is not to be taken to be duly returned unless—

- (a) it is returned in the manner prescribed by the relevant postal voting provisions and reaches the counting officer or a polling station in the appropriate area before the close of the poll,
- (b) the postal voting statement, duly signed, is also returned in the manner prescribed by the relevant postal voting provisions and reaches the counting officer or such a polling station before that time,
- (c) the postal voting statement also states the date of birth of the elector or proxy (as the case may be), and
- (d) in a case where an elector's or proxy's date of birth and signature are to be verified in accordance with the relevant postal voting provisions, the counting officer verifies the date of birth and signature of the elector or proxy (as the case may be).

In paragraph (a) "the appropriate area" means the voting area containing the address in respect of which the elector is registered.

(4) A postal ballot paper or postal voting statement that reaches the counting officer or a polling station on or after the close of the poll is treated for the purposes of paragraph (3) as reaching that officer or polling station before the close of the poll if it is delivered by a person who, at the close of the poll, is in the polling station, or in a queue outside the polling station, for the purpose of returning it.

(5) In Northern Ireland a postal ballot paper is not to be taken to be duly returned unless—

- (a) it is returned in the proper envelope so as to reach the counting officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated, and
- (b) in the case of an elector, the declaration of identity states the elector's date of birth and the counting officer is satisfied that the date stated corresponds with the date supplied as the elector's date of birth in pursuance of section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act.

(6) In the case of an elector in Northern Ireland, unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act<sup>(34)</sup> applies, the declaration of identity referred to in paragraph (5) is not to be taken to be duly signed unless the counting officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature in pursuance of section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of that Act.

(7) The counting officer must not count any tendered ballot papers or (in Northern Ireland) tendered postal ballot papers.

(8) The counting officer, while counting and recording the number of ballot papers and counting the votes, must—

- (a) keep the ballot papers with their faces upwards, and
- (b) take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.

(9) The counting officer must—

- (a) verify each ballot paper account by comparing it with the number of ballot papers recorded by the officer, and the unused and spoilt ballot papers in the officer's possession and the tendered votes list and, in Northern Ireland, the tendered postal votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the lists);
- (b) draw up a statement as to the result of the verification.

(10) Any counting agent present at the verification may copy the statement drawn up under paragraph (9)(b).

(11) Once the statement is drawn up the counting officer must—

- (a) in the case of a voting area in a region for which a Regional Counting Officer is appointed, inform the Regional Counting Officer of the contents of the statement;
- (b) in the case of any other voting area, inform the Chief Counting Officer of the contents of the statement.

(12) The counting officer must so far as practicable proceed continuously with the counting of votes, allowing only time for refreshment, except that—

- (a) the officer may, with the agreement of the counting agents, exclude the whole or any part of the period between 7pm and 9am on the next day;
- (b) the officer may exclude a day mentioned in regulation 7(1).

(13) During the time so excluded the counting officer must—

- (a) place the ballot papers and other documents relating to the referendum under the officer's own seal and the seals of any of the counting agents who want to affix their seals, and
- (b) otherwise take proper precautions for the security of the papers and documents.

(14) For the purposes of paragraph (12)(a) the agreement of a referendum agent is effective as the agreement of his or her counting agents.

## Re-count

**47.—**(1) A person within paragraph (2) who is present at the completion of the counting (or any re-count) of the votes in a voting area may require the counting officer to have the votes for that area re-counted (or again re-counted), but the counting officer may refuse to do so if in the officer's opinion the requirement is unreasonable.

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<sup>(34)</sup> Section 10 was substituted, and sections 10A and 13A were inserted, by paragraphs 1, 4 and 6 of Schedule 1 to the Representation of the People Act 2000 (c.2). Subsection (4B) of section 10, subsection (1B) of section 10A and subsection (2B) of section 13A were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13). Sections 10(4B) and 10A(1B) were amended by paragraphs 104, 105 and 106 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

- (2) The persons within this paragraph are—
- (a) referendum agents;
  - (b) counting agents who, in relation to the count (or re-count), are designated under regulation 23(2).

(3) No step is to be taken on the completion of the counting (or any re-count) of the votes until the persons within paragraph (2) present at its completion have been given a reasonable opportunity to exercise the right conferred by this regulation.

(4) A counting officer may not conduct a re-count once a direction has been given under regulation 49(3)(b).

### Rejected ballot papers

**48.**—(1) Any ballot paper—

- (a) that does not bear the official mark, or
- (b) on which a vote is given for both answers to the referendum question, or
- (c) on which anything is written or marked by which the voter can be identified (except the printed number and other unique identifying mark on the back), or
- (d) which is unmarked or does not indicate the voter’s intention with certainty,

is void and not to be counted.

(2) But a ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place, or
- (b) otherwise than by means of a cross, or
- (c) by more than one mark,

is not to be treated as void for that reason if the voter’s intended answer to the referendum question is apparent, and the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified by it.

(3) The counting officer must endorse the word “rejected” on any ballot paper which under this regulation is not to be counted, and must add to the endorsement the words “rejection objected to” if an objection is made by a counting agent to the officer’s decision.

(4) The counting officer must draw up a statement showing the number of ballot papers rejected under each of the following heads—

- (a) no official mark;
- (b) both answers voted for;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty.

(5) Once the statement is drawn up the counting officer must—

- (a) in the case of a voting area in a region for which a Regional Counting Officer is appointed, inform the Regional Counting Officer of the contents of the statement;
- (b) in the case of any other voting area, inform the Chief Counting Officer of the contents of the statement.

### **Direction to conduct re-count**

**49.**—(1) On the completion of the counting of the votes (including any re-count under regulation 47), and on the completion of any re-count under this regulation, the counting officer must draw up a statement showing—

- (a) the total number of ballot papers counted, and
- (b) the number of votes cast in favour of each answer to the question asked in the referendum.

(2) Once the statement is drawn up the counting officer must—

- (a) in the case of a voting area in a region for which a Regional Counting Officer is appointed, inform the Regional Counting Officer of the contents of the statement;
- (b) in the case of any other voting area, inform the Chief Counting Officer of the contents of the statement.

(3) The Regional Counting Officer or Chief Counting Officer must then either—

- (a) direct the counting officer to have the votes re-counted, or
- (b) direct the counting officer to make the certification under section 128(5) of the 2000 Act.

(4) The Regional Counting Officer or Chief Counting Officer may give a direction under paragraph (3)(a) only if the officer thinks that there is reason to doubt the accuracy of the counting of the votes in the counting officer's voting area.

(5) A counting officer who is given a direction under paragraph (3)(a) must—

- (a) begin the re-count as soon as practicable, and
- (b) if the officer does not begin the re-count immediately, notify the counting agents of the time and place at which it will take place.

(6) A counting officer may not make the certification under section 128(5) of the 2000 Act until directed to do so under paragraph (3)(b).

### **Decisions on ballot papers**

**50.** The decision of the counting officer on any question arising in respect of a ballot paper is final (subject to review in accordance with paragraph 19 of Schedule 3 to the 2015 Act).

### *Final proceedings*

### **Declaration by counting officers**

**51.**—(1) This regulation applies to the counting officer for a voting area in a region for which a Regional Counting Officer is appointed.

(2) After making the certification under section 128(5) of the 2000 Act, the counting officer must—

- (a) immediately give to the Regional Counting Officer notice of the matters certified;
- (b) as soon as practicable give to the Regional Counting Officer notice of the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(3) When authorised to do so by the Regional Counting Officer, the counting officer must—

- (a) make a declaration of the matters certified under section 128(5) of the 2000 Act;
- (b) give public notice of the matters certified together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

**52.**—(1) This regulation applies to—

- (a) the counting officer for Northern Ireland;
  - (b) the counting officer for a voting area in a region for which no Regional Counting Officer is appointed.
- (2) After making the certification under section 128(5) of the 2000 Act, the counting officer must—
- (a) immediately give to the Chief Counting Officer notice of the matters certified;
  - (b) as soon as practicable give to the Chief Counting Officer notice of the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.
- (3) When authorised to do so by the Chief Counting Officer, the counting officer must—
- (a) make a declaration of the matters certified under section 128(5) of the 2000 Act;
  - (b) give public notice of the matters certified together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

#### **Declaration by Regional Counting Officers**

**53.**—(1) After making the certification under paragraph 7(4) of Schedule 3 to the 2015 Act, a Regional Counting Officer must—

- (a) immediately give to the Chief Counting Officer notice of the matters certified;
  - (b) as soon as practicable give to the Chief Counting Officer notice of the number of rejected ballot papers for the region under each head shown in the statements of rejected ballot papers.
- (2) When authorised to do so by the Chief Counting Officer, a Regional Counting Officer must—
- (a) make a declaration of the matters certified under paragraph 7(4) of Schedule 3 to the 2015 Act;
  - (b) give public notice of the matters certified together with the number of rejected ballot papers for the region under each head shown in the statements of rejected ballot papers.

#### **Declaration of referendum result by Chief Counting Officer**

**54.** After making the certification under section 128(6) of the 2000 Act, the Chief Counting Officer must—

- (a) immediately make a declaration of the matters certified under that provision;
- (b) as soon as practicable give public notice of the matters certified together with the number of rejected ballot papers under each head shown in the statements of rejected ballot papers.

#### *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.