

## SCHEDULE 4

Article 26

### OFFENCES

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## **Offences relating to applications for postal and proxy votes**

1.—(1) A person who provides false information in connection with an application to which any of paragraphs 3, 5(8) or 6(6) or (7) of Schedule 1 applies is guilty of an offence.

(2) For the purposes of sub-paragraph (1), “false information” means a signature which —

- (a) is not the usual signature of, or
- (b) was written by a person other than,

the person whose signature it purports to be.

(3) A person does not commit an offence under sub-paragraph (1) if the person did not know, and had no reason to suspect, that the information was false.

(4) Where sufficient evidence is adduced to raise an issue with respect to the defence under sub-paragraph (3), the court is to assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(5) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to —

- (a) imprisonment for a term not exceeding 51 months; or
- (b) a fine not exceeding level 5 on the standard scale,

or both.

(6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003<sup>(1)</sup>, the reference in sub-paragraph (5)(a) to 51 weeks must be taken to be a reference to six months.

(7) A person (P) commits an offence if P —

- (a) engages in an act specified in sub-paragraph (8) in the referendum; and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for P or another a gain of a vote to which P or the other is not otherwise entitled or a gain of money or property.

(8) These are the acts—

- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
- (c) inducing the registration officer or counting officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.

(9) In sub-paragraph (7)(b), property includes any description of property.

(10) In sub-paragraph (8) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).

(11) A person who commits an offence under sub-paragraph (7) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.

(12) A person who—

- (a) in any declaration or form used for any of the purposes of Parts 1 and 2 of Schedule 1, makes a statement knowing it to be false; or

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(1) 2003 c. 44.

- (b) attests an application under paragraph 3, 5(8) or 6(6) or (7) of that Schedule knowing—
  - (i) that the person is not authorised to do so; or
  - (ii) that it contains statement which is false,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Personation**

**2.—(1)** A person is guilty of a corrupt practice if the person commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person (P) is to be deemed guilty of personation in the referendum if P —

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes, as proxy, in person or by post —
  - (i) for a person whom P knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when P knows or has reasonable grounds for supposing that P’s appointment as proxy is no longer in force.

(3) For the purposes of this paragraph, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted.

(4) Section 24A of the Police and Criminal Evidence Act 1984<sup>(2)</sup> (arrest without warrant: other persons) does not permit a person other than a constable to arrest, inside a polling station, a person who commits or is suspected of committing an offence under the preceding provisions of this paragraph.

### **Other voting offences**

**3.—(1)** A person (P) is guilty of an offence if P —

- (a) votes in person or by post in the referendum, whether as an elector or as proxy, or applies to vote by proxy or by post as an elector in the referendum knowing that P is subject to a legal incapacity to vote in the referendum; or
- (b) applies for the appointment of a proxy to vote for P in the referendum knowing that P or the person to be appointed is subject to a legal incapacity to vote in the referendum; or
- (c) votes, whether in person or by post, as proxy for some other person in the referendum, knowing that the other person is subject to a legal incapacity to vote.

(2) For the purposes of sub-paragraph (1), references to a person being subject to a legal incapacity to vote do not, in relation to things done before the day of the poll, include the person being below voting age if the person will be of voting age on that date.

(3) A person (P) is guilty of an offence if P —

- (a) votes as an elector otherwise than by proxy more than once in the referendum;
- (b) votes as an elector in person in the referendum when P is entitled to vote by post;

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(2) Section 24A of the Police and Criminal Evidence Act 1984 (c.60) was inserted by section 110(1) of the Serious Organised Crime and Police Act 2005 (c.15). There is an amendment to section 24A which is not relevant to this Order.

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- (c) votes as an elector in person in the referendum, knowing that a person appointed to vote as P’s proxy in the referendum either has already voted in person in the referendum or is entitled to vote by post in the referendum; or
  - (d) applies for a person to be appointed as P’s proxy to vote for P in the referendum without applying for the cancellation of a previous appointment of a third person then in force in respect of the referendum or without withdrawing a pending application for such an appointment in respect of the referendum.
- (4) A person (P) is guilty of an offence if P —
- (a) votes as proxy for the same elector more than once in the referendum;
  - (b) votes in person as proxy for an elector in the referendum when P is entitled to vote by post as proxy in the referendum for that elector; or
  - (c) votes in person as proxy for an elector in the referendum knowing that the elector has already voted in person in the referendum.
- (5) A person (P) is guilty of an offence if P votes in the referendum as proxy for more than two persons of whom P is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- (6) A person (P) is guilty of an offence if P knowingly induces or procures some other person to do an act which is, or but for that other person’s want of knowledge would be, an offence by that other person under the foregoing provisions of this paragraph.
- (7) For the purposes of this paragraph a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under sub-paragraph (5), a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper is, if the person does not exercise that right, to be disregarded.
- (8) A person is not guilty of an offence under sub-paragraph (3)(b) or (4)(b) only by reason of the person’s having marked a tendered ballot paper in reliance on situations B, C or D in rule 28 of the Referendum Rules.
- (9) An offence under this paragraph is an illegal practice, but the court before whom a person is convicted of any such offence may, if the court thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of paragraph 25.

**Breach of official duty**

- 4.—(1) If a person to whom this paragraph applies is, without reasonable cause, guilty of any act or omission in breach of the person’s official duty, the person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) No person to whom this paragraph applies is liable, for breach of that person’s official duty, to any penalty at common law and no action for damages lies in respect of the breach by such a person of the person’s official duty.
- (3) The persons to whom this paragraph applies are —
- (a) the Chief Counting Officer, a Deputy Chief Counting Officer and any counting officer;
  - (b) any presiding officer or registration officer;
  - (c) any official designated by a universal postal service provider;
  - (d) any deputy of a person mentioned in sub-paragraph (a) to (c); and
  - (e) any person (“A”) appointed to assist or, in the course of A’s employment, assisting a person (“P”) mentioned in sub-paragraphs (a) to (c) in connection with P’s official duties,

and “official duty” for the purpose of this paragraph is to be construed accordingly, but does not include duties imposed otherwise than by this Order or the law relating to referendums.

(4) Where —

- (a) the Chief Counting Officer, a Deputy Chief Counting Officer or a counting officer is guilty of an act or omission in breach of that officer’s official duty; but
- (b) the officer remedies that act or omission in full by taking steps under paragraph (1) of article 12, the officer is not guilty of an offence under sub-paragraph (1).

(5) Sub-paragraph (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.

### **Tampering with ballot papers etc.**

5.—(1) A person (P) is guilty of an offence if, in the referendum, P—

- (a) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any postal voting statement or official envelope used in connection with voting by post;
- (b) without due authority, supplies any ballot paper to any person;
- (c) fraudulently puts into any ballot box any paper other than the ballot paper which P is authorised by law to put in;
- (d) fraudulently takes out of the polling station any ballot paper;
- (e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the referendum; or
- (f) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) If the Chief Counting Officer, a Deputy Chief Counting Officer, a counting officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers in the referendum, is guilty of an offence under this paragraph, the officer or clerk is liable —

- (a) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.

(3) If any other person is guilty of an offence under this paragraph the person is liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

(4) In relation to an offence committed under sub-paragraph (2) after the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in sub-paragraph (2)(b) to 6 months is to be read as a reference to 12 months.

(5) In relation to an offence committed under sub-paragraph (3) after the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (3) to 6 months is to be read as a reference to 51 weeks.

### **Requirement of secrecy**

6.—(1) The following persons attending at a polling station ,namely—

- (a) the Chief Counting Officer, a Deputy Chief Counting Officer or a counting officer;
- (b) a deputy of a counting officer;

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- (c) a presiding officer or clerk;
  - (d) a referendum agent;
  - (e) a polling agent; and
  - (f) any person so attending by virtue of any of sections 6A to 6D of the 2000 Act,
- must maintain and aid in maintaining the secrecy of voting in the referendum and must not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to —
- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
  - (ii) the number on the register of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
  - (iii) the official mark on any ballot paper.
- (2) A person attending at the counting of the votes must maintain and aid in maintaining the secrecy of voting and must not —
- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper; or
  - (b) communicate any information obtained at the counting of the votes as to the referendum answer for which any vote is given on any particular ballot paper.
- (3) A person must not —
- (a) interfere with or attempt to interfere with a voter when recording the voter's vote;
  - (b) otherwise obtain or attempt to obtain in a polling station information as to the referendum answer for which a voter in that station is about to vote or has voted;
  - (c) communicate at any time to any person any information obtained in a polling station as to the referendum answer for which a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given to a voter at that station; or
  - (d) directly or indirectly induce a voter to display a ballot paper after the voter has marked it so as to make known to any person the referendum answer for which the voter has or has not voted.
- (4) A person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post in the referendum must maintain and aid in maintaining the secrecy of the voting and must not —
- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
  - (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of the ballot paper sent to any person; or
  - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper sent to any person; or
  - (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the referendum answer for which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (5) A person having undertaken to assist a voter with disabilities to vote must not communicate at any time to any person any information as to the referendum answer for which that voter intends

to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given for the use of that voter.

(6) If a person acts in contravention of this paragraph the person is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

(7) In relation to an offence committed after the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (6) to 6 months is to be read as a reference to 51 weeks.

(8) In this paragraph a voter with disabilities is a voter who has made a declaration under rule 27(1) of the Referendum Rules.

### **Prohibition on publication of exit polls**

7.—(1) No person may publish before the close of the poll —

- (a) any statement relating to the way in which voters have voted in the referendum where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or
- (b) any forecast as to the result of the referendum which is (or might reasonably be taken to be) based on information so given.

(2) If a person acts in contravention of this sub-paragraph (1) the person is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale.

(3) In relation to an offence committed after the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 6 months is to be read as a reference to 51 weeks.

(4) In this paragraph —

“forecast” includes estimate;

“publish” means make available to the public at large (or any section of the public), in whatever form and by whatever means; and

the reference to a forecast as to the result of the referendum includes a reference to a forecast as the number or proportion of votes expected to be cast for each answer to the referendum question in any voting area or any other area.

### **Broadcasting from outside the United Kingdom**

8.—(1) No person may, with intent to influence persons to give or refrain from giving their votes in the referendum, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the referendum in any programme service (within the meaning of the Broadcasting Act 1990(3)) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with —

- (a) the British Broadcasting Corporation;
- (b) Sianel Pedwar Cymru; or
- (c) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

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(3) 1990 c.42. See section 201 of the Broadcasting Act 1990 for the meaning of programme service. Section 201 has been amended by the Communications Act 2003 (c.21), section 360(1)(a) and (b) and (2) and Schedule 19(1).

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(2) An offence under this paragraph is an illegal practice, but the court before which a person is convicted of an offence under this paragraph may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of paragraph 25.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this paragraph, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is to be deemed guilty of the illegal practice, unless that person proves —

- (a) that the act or omission took place without that person's consent or connivance; and
- (b) that the person exercised all such diligence to prevent the commission of the illegal practice as the person ought to have exercised having regard to the nature of that person's functions in that capacity and to all the circumstances.

### **Imitation poll cards**

9. No person may for the purpose of promoting or procuring a particular result in the referendum issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and sub-paragraphs (2) and (3) of paragraph 8 apply as if an offence under this paragraph were an offence under that paragraph.

### **Disturbances at meetings**

10.—(1) A person who at a lawful public meeting to which this paragraph applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice.

(2) This paragraph applies to a meeting held in Wales by a permitted participant during the referendum period in connection with the referendum.

(3) If a constable reasonably suspects any person (P) of committing an offence under sub-paragraph (1), the constable may, if requested so to do by the chairman of the meeting, require P to declare immediately to the constable P's name and address and, if P refuses or fails so to declare P's name and address or gives a false name and address, P is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### **Officials not to act for permitted participants**

11.—(1) If —

- (a) the Chief Counting Officer, a Deputy Chief Counting Officer, or any counting officer;
- (b) any officer, deputy or clerk appointed by a counting officer; or
- (c) any officer of a county or county borough council whose services have been placed at the disposal of a counting officer under section 128 of the 2000 Act,

acts as a referendum agent for a permitted participant, that person is guilty of an offence.

(2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Illegal canvassing by police officers**

12.—(1) No member of a police force may by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, that person's vote, whether as an elector or as proxy in the referendum, in a voting area wholly or partly within the police area.



(2) A person acting in contravention of sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale; but nothing in that sub-paragraph subjects a member of a police force to any penalty for anything done in the discharge of that member's duty as a member of the force.

### **Payments for exhibition of referendum notices**

**13.**—(1) No payment or contract for payment may, for the purpose of promoting or procuring a particular result in the referendum, be made to a voter on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless —

- (a) it is the ordinary business of the voter as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this paragraph, whether before, during or after the referendum —

- (a) the person making the payment or contract; and
- (b) if such other person knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

is guilty of an illegal practice.

### **Prohibition of paid canvassers**

**14.** If a person is, whether before, during or after the referendum, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a particular result in the referendum —

- (a) the person so engaging or employing the canvasser; and
- (b) the canvasser,

is guilty of illegal employment.

### **Providing money for illegal purposes**

**15.** If a person knowingly provides money —

- (a) for any payment which is contrary to the provisions of this Schedule; or
- (b) for replacing any money expended in any such payment,

except where the payment may have been previously allowed in pursuance of paragraph 21 to be an exception, that person is guilty of an illegal payment.

### **Bribery**

**16.**—(1) A person is guilty of a corrupt practice if the person is guilty of bribery.

(2) A person (P) is guilty of bribery in the referendum if P, directly or indirectly, personally or by any other person on P's behalf —

- (a) gives any money or procures any office —
    - (i) to or for any voter;
    - (ii) to or for any other person on behalf of any voter; or
    - (iii) to or for any other person,
- in order to induce any voter to vote or refrain from voting,

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- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure a particular result in the referendum or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above P procures or engages, promises or endeavours to procure a particular result in the referendum or the vote of any voter.

(3) For the purposes of paragraph (2) —

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(4) A person is guilty of bribery if that person —

- (a) advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it is to be expended in bribery in the referendum, or
- (b) knowingly pays or causes to be paid any money to any other person in discharge or repayment of any money wholly or in part expended in bribery in the referendum.

(5) The foregoing provisions of this paragraph do not apply and are not to be construed to apply to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith in or concerning the referendum.

(6) A voter (V) is guilty of bribery if, before or during the referendum, directly or indirectly, personally or by any other person on V's behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for V or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person (P) is guilty of bribery if after the referendum P, directly or indirectly, personally or by any other person on P's behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this paragraph the expression "voter" includes any person who has or claims to have a right to vote.

## **Treating**

17.—(1) A person is guilty of a corrupt practice if the person is guilty of treating.

(2) A person is guilty of treating, if that person corruptly, personally or by any other person, whether before, during or after the referendum, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person —

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or proxy of that elector who corruptly accepts or takes any such meat, drink, entertainment or provision is also guilty of treating.

### **Undue influence**

**18.**—(1) A person is guilty of a corrupt practice if the person is guilty of undue influence.

(2) A person (P) is guilty of undue influence —

- (a) if P, directly or indirectly, personally or by any other person on P's behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, personally or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, P impedes or prevents, or intends to impede or prevent, the free exercise of the franchise of an elector or the proxy for an elector or so compels, induces or prevails upon, or intends so to compel, induce or prevail upon, an elector or the proxy for an elector either to vote or to refrain from voting.

### **Interference with notices etc.**

**19.** If any person without lawful authority destroys, mutilates, defaces or removes any notice published by a registration officer in connection with the registration officer's duties under this Order or any copies of a document which have been made available for inspection in pursuance of those duties, that person is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Offences in contravention of Schedule 1 paragraphs 20 and 21 (Supply of free copy of register etc.)**

**20.**—(1) A person is guilty of an offence—

- (a) if that person contravenes any of the provisions specified in paragraph (2); or
- (b) if that person is an appropriate supervisor of another person (P) who fails to comply with any of those provisions and that person failed to take appropriate steps.

(2) Those provisions are paragraphs 20(6) and 21(3) and (15) of Schedule 1 and regulation 92(9) of the 2001 Regulations as applied by paragraph 21(10) of that Schedule.

(3) P is not guilty of an offence under paragraph (1) if—

- (a) P has an appropriate supervisor; and
- (b) P has complied with all the requirements imposed on P by that appropriate supervisor.

(4) A person who is not P or an appropriate supervisor is not guilty of an offence under paragraph (1) if that person takes all reasonable steps to ensure that he or she complies with the provisions specified in paragraph (2).

(5) In paragraphs (1)(b) and (3)—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions in paragraph (2).

(6) A person guilty of an offence as mentioned in paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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### **Application for relief**

**21.**—(1) An application for relief under this paragraph may be made to the High Court.

(2) Where a person makes an application under this paragraph that person must notify the Director of Public Prosecutions of the application and the Director or the Director's assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) If it is shown to the court by such evidence as to the court seems sufficient —

- (a) that any act or omission of any person would, apart from this paragraph, by reason of being in contravention of this Schedule be an illegal practice, payment or employment;
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c) that such notice of the application has been given as the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Schedule of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Schedule making it an illegal practice, payment or employment and upon the making of the order no person is to be subject to any of the consequences under this Schedule of that act or omission.

### **Prosecutions for corrupt practices**

**22.**—(1) A person who is guilty of a corrupt practice is liable —

- (a) on conviction on indictment —
  - (i) in the case of a corrupt practice under paragraph 1(11) (offences relating to applications for postal and proxy votes) or 2 (personation) to imprisonment for a term not exceeding two years, or to a fine, or to both;
  - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both; or
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum or to both.

(2) In relation to an offence committed after commencement of section 281(5) of the Criminal Justice Act 2003, the reference in paragraph (1)(b) to 6 months is to be read as a reference to 51 weeks.

### **Prosecutions for illegal practice**

**23.** A person guilty of an illegal practice is on summary conviction liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for an illegal practice it is sufficient to allege that the person charged was guilty of an illegal practice.

### **Conviction of illegal practice on charge of corrupt practice etc.**

**24.** A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence is for that purpose to be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

### **Incapacities on conviction of corrupt or illegal practice**

**25.**—(1) A person to whom this paragraph applies is, during the relevant period specified in sub-paragraph (3), incapable of being registered as an elector or voting at any —

- (a) Assembly election;
- (b) election to the House of Commons;
- (c) election to the European Parliament;
- (d) election to the Scottish Parliament;
- (e) election to the Northern Ireland Assembly;
- (f) local government election; or
- (g) referendum to which Part 7 of the 2000 Act or Part 2 of the Local Government Act 2000<sup>(4)</sup> applies.

(2) This paragraph applies only to a person convicted of a corrupt practice under paragraph 1(11) or paragraph 2 of this Schedule or of an illegal practice under paragraph 3 of this Schedule.

(3) For the purposes of sub-paragraph (1) the relevant period is the period beginning with the date of conviction and ending —

- (a) in the case of a person convicted of a corrupt practice, five years after that date; or
- (b) in the case of a person convicted of an illegal practice, three years after that date,

except that if (at any time within that period of five or, as the case may be, three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period is to end at that time instead.

(4) Any incapacities applying to a person by virtue of the preceding provisions of this paragraph applies in addition to any punishment imposed under paragraph 22 or 23.

### **Prosecutions for illegal payments etc.**

**26.**—(1) A person guilty of an offence of illegal employment under paragraph 14 or illegal payment under paragraph 15 is, on summary conviction, liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for such an offence it is sufficient to allege that the person charged was guilty of an illegal employment or payment as the case may be.

(2) Any person charged with an offence of illegal employment or payment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

### **Time limit for prosecutions**

**27.**—(1) A proceeding against a person in respect of any offence under any provision contained in this Schedule is to be commenced within one year after the offence was committed, and the time so limited by this paragraph is, in the case of any proceedings under the Magistrates' Courts Act 1980<sup>(5)</sup> for any such offence, to be substituted for any limitation of time contained in that Act.

(2) For the purposes of this paragraph the laying of an information is deemed to be the commencement of a proceeding.

(3) A magistrates' court may act under sub-paragraph (4) if it is satisfied on an application by a constable or Crown Prosecutor —

- (a) that there are exceptional circumstances which justify the granting of the application; and

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(4) 2000 c.22.

(5) 1980 c.43.

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(b) that there has been no undue delay in the investigation of the offence to which the application relates.

(4) The magistrates' court may extend the time within which the proceedings must be commenced in pursuance of sub-paragraph (1) to not more than 24 months after the offence was committed.

(5) If the magistrates' court acts under sub-paragraph (4), it may also make an order under sub-paragraph (6) if it is satisfied, on an application by a constable or Crown Prosecutor that documents retained by the relevant registration officer in pursuance of rule 44 of the Referendum Rules may provide evidence relating to the offence.

(6) An order under this sub-paragraph is an order —

- (a) directing the relevant registration officer not to cause the documents to be destroyed at the expiry of the period of one year mentioned in rule 44 of the Referendum Rules; and
- (b) extending the period for which the relevant registration officer is required to retain them under that rule by such further period not exceeding 12 months as is specified in the order.

(7) The making of an Order under sub-paragraph (6) does not affect any other power to require the retention of the documents.

(8) An application under this paragraph must be made not more than one year after the offence was committed.

(9) Any party to —

- (a) an application under sub-paragraph (3); or
- (b) an application under sub-paragraph (5),

who is aggrieved by the refusal of the magistrates' court to act under sub-paragraph (4) or to make an order under sub-paragraph (6) (as the case may be) may appeal to the Crown Court.

### **Referendum offence punishable summarily**

**28.** A prosecution for any offence punishable summarily under this Schedule—

- (a) may be instituted before any magistrates' court in the voting area in which the offence is alleged to have been committed; and
- (b) the offence is to be deemed for all purposes to have been committed within the jurisdiction of that court.

### **Prosecution of offences committed outside the United Kingdom**

**29.** Proceedings in respect of an offence under this Schedule alleged to have been committed outside the United Kingdom by a Commonwealth citizen or citizen of the Republic of Ireland or a relevant citizen of the Union may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

### **Offences by associations**

**30.** Where any corrupt or illegal practice or any illegal payment or employment is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence are liable to any fine or punishment imposed for that offence by this Schedule.

### **Evidence by certificate of electoral registration**

**31.** The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in the registration officer's register in respect of any address is

sufficient evidence of the facts stated in it; and a document purporting to be such a certificate is to be received in evidence and presumed to be such a certificate unless the contrary is proved.

### **Director of Public Prosecutions**

**32.** Where information is given to the Director of Public Prosecutions that any offence under this Schedule has been committed, it is the duty of the Director to make such inquiries and institute such prosecutions as the circumstances of the case appear to the Director to require.

### **Rights of creditors**

**33.** Any provision in this Schedule prohibiting payments and contracts for payments does not affect the right of any creditor who, when the payment or contract was made, was ignorant of that payment or contract being in contravention of this Schedule.

### **Saving**

**34.** Nothing in this Schedule makes it illegal for an employer (“A”) to permit voters in the referendum to absent themselves from A’s employment for a reasonable time for the purposes of voting at the poll in the referendum without having any deduction from their salaries or wages on account of their absence, if the permission —

- (a) is (so far as practicable without injury to A’s business) given equally to all persons alike who are at the time in A’s employment;
- (b) is not given with a view to inducing any person to give that person’s vote for a particular answer in the referendum; and
- (c) is not refused to any person for the purpose of preventing that person from giving his or her vote for a particular answer in the referendum.

But this paragraph is not to be construed as making illegal any act which would not be illegal apart from this paragraph.

### **Service of notices**

**35.—(1)** Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting the referendum for the purpose of causing that person to appear before the High Court, or a county court or otherwise or of giving that person an opportunity of making a statement, or showing cause, or being heard in person before any court for any purpose of this Schedule may be served—

- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service to that person’s last known place of abode; or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this paragraph it is sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with the postal operator (within the meaning of the Postal Services Act 2000) concerned.

### **Interpretation of this Schedule**

**36.** In this Schedule, unless the context otherwise requires—

“legal process” means a claim form, application notice, writ, summons or other process;

“money” and “pecuniary reward” are deemed to include—

- (a) any office, place or employment;

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- (b) any valuable security or other equivalent of money; and
  - (c) any valuable consideration,
- and expressions referring to money are to be construed accordingly; and  
“payment” includes any pecuniary or other reward.