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STATUTORY INSTRUMENTS

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**2016 No. 219**

**The European Union Referendum (Conduct) Regulations 2016**

**PART 2**

**REGULATIONS FOR THE CONDUCT OF THE  
REFERENDUM IN THE UNITED KINGDOM**

*Counting of votes*

**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(1) 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.

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(1) 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).

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

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(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.

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**Commencement Information**

**II** Reg. 46 in force at 26.2.2016, see [reg. 1](#)

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**Changes and effects yet to be applied to :**

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

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

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

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