
DRAFT STATUTORY INSTRUMENTS

2016 No.

The European Union Referendum (Conduct) Regulations 2016

PART 3

ABSENT VOTING IN THE REFERENDUM IN THE UNITED KINGDOM

CHAPTER 1

GREAT BRITAIN

Overview and interpretation

59.—(1) This Chapter of this Part contains provision about voting in the referendum in England and Wales and Scotland.

(2) In this Chapter of 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);

“peer” means a peer who is a member of the House of Lords;

“relevant register” means—

(a) a register of parliamentary electors, or

(b) in relation to a peer—

(i) a register of local government electors, or

(ii) a register of peers maintained under section 3 of the Representation of the People Act 1985(3) (peers resident outside the United Kingdom);

“the relevant regulations”—

(a) in relation to England and Wales, means the Representation of the People (England and Wales) Regulations 2001(4) as applied by Part 1 of Schedule 3;

(b) in relation to Scotland, means the Representation of the People (Scotland) Regulations 2001(5) as so applied;

“the RPA 2000” means the Representation of the People Act 2000(6).

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

(2) 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.

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

(4) S.I. 2001/341. 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.

(5) S.I. 2001/497. 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.

(6) 2000 c.2.

Manner of voting in the referendum

60.—(1) This regulation applies to determine the manner of voting in England and Wales or Scotland of a person entitled to vote in the referendum.

(2) The person may vote in person at the polling station allotted to him or her under Part 2, unless the person is entitled to vote by post or by proxy in the referendum.

(3) The person may vote by post if the person is entitled to vote by post in the referendum.

(4) If the person is entitled to vote by proxy in the referendum, the person may so vote unless, before a ballot paper has been issued for the person to vote by proxy, the person applies at the polling station allotted to him or her under Part 2 for a ballot paper for the purpose of voting in person, in which case he or she may vote in person there.

(5) If the person is not entitled to vote by post or by proxy in the referendum, the person may vote in person at any polling station in the same voting area as the polling station allotted to him or her under Part 2 if paragraph (6) applies.

(6) This paragraph applies if the person cannot reasonably be expected to go in person to the polling station allotted to him or her under Part 2 by reason of his or her employment on the date of the poll for a purpose connected with the referendum, if that employment is—

- (a) as a constable or as a person designated as a community support officer under section 38 of the Police Reform Act 2002 (police powers for employees), or
- (b) by the counting officer.

(7) Nothing in this regulation applies to a person to whom section 7 of the 1983 Act⁽⁷⁾ (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether the person is registered by virtue of that provision or not; and such a person may vote—

- (a) in person (where the person is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission), or
- (b) by post or by proxy (where the person is entitled to vote by post or, as the case may be, by proxy in the referendum).

(8) Nothing in this paragraph applies to a person to whom section 7A of the 1983 Act⁽⁸⁾ (persons remanded in custody) applies, whether the person is registered by virtue of that provision or not; and such a person may vote only by post or by proxy (where the person is entitled to vote by post or, as the case may be, by proxy in the referendum).

(9) Paragraph (2) does not prevent a person, at the polling station allotted to him or her, marking a tendered ballot paper in pursuance of regulation 37.

Entitlement to vote by post or by proxy

61.—(1) A person entitled to vote in the referendum is entitled to vote by post or by proxy if paragraph (2) or (3) (as the case may be) applies to the person.

(2) This paragraph applies to a person who is shown in the postal voters list mentioned in regulation 63⁽²⁾ as entitled to vote by post in the referendum.

(3) This paragraph applies to a person who is shown in the list of proxies mentioned in regulation 63⁽³⁾ as entitled to vote by proxy in the referendum.

(7) Section 7 was substituted by section 4 of the Representation of the People Act 2000 (c.2). It was amended by section 12(1) of the Electoral Administration Act 2006 (c.22); paragraphs 1 and 2 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c.6); paragraph 1 of Schedule 1 to S.I. 2005/2078; and paragraph 12 of Schedule 1 to S.S.I. 2005/465.

(8) Section 7A was inserted by section 5 of the Representation of the People Act 2000 (c.2). It was amended by section 12(2) of the Electoral Administration Act 2006 (c.22); paragraphs 1 and 3 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c.6); paragraph 1 of Schedule 1 to S.I. 2005/2078; and paragraph 12 of Schedule 1 to S.S.I. 2005/465.

Application to vote by post or by proxy in the referendum

62.—(1) Where a person applies to the registration officer to vote by post in the referendum, the registration officer must grant the application if—

- (a) the officer is satisfied that the applicant is or will be registered in a relevant register, and
- (b) the application contains the applicant's signature and date of birth and meets the requirements prescribed by the relevant regulations.

(2) Where a person applies to the registration officer to vote by proxy in the referendum, the registration officer must grant the application if—

- (a) the officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under Part 2,
- (b) the officer is satisfied that the applicant is or will be registered in a relevant register, and
- (c) the application contains the applicant's signature and date of birth and meets the requirements prescribed by the relevant regulations.

(3) Where a person—

- (a) has an anonymous entry in a relevant register, and
- (b) applies to the registration officer to vote by proxy in the referendum,

the registration officer must grant the application if it meets the requirements prescribed by the relevant regulations.

(4) Nothing in paragraph (1), (2) or (3) applies to—

- (a) a person who is included in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 (absent vote at elections for definite or indefinite period) in respect of parliamentary elections,
- (b) a peer who is included in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 (absent vote at elections for definite or indefinite period) in respect of local government elections, or
- (c) a peer who is included in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004⁽⁹⁾ (absent vote at elections for definite or indefinite period).

(5) But if a person is included in a record mentioned in paragraph (4) and is shown in the record as voting by post, the person may, in respect of the referendum, apply to the registration officer—

- (a) for his or her ballot paper to be sent to a different address from that shown in the record, or
- (b) to vote by proxy.

(6) The registration officer must grant an application under paragraph (5) if—

- (a) (in the case of any application) it meets the requirements prescribed by the relevant regulations, and
- (b) (in the case of an application to vote by proxy) the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under Part 2.

(7) The registration officer may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if the officer is satisfied that the applicant—

⁽⁹⁾ [S.I. 2004/293](#), amended by [S.I. 2005/2114](#), [S.I. 2009/186](#), [S.I. 2013/2876](#), [S.I. 2015/459](#); there are other amending instruments but none is relevant.

- (a) is unable to provide a signature because of any disability the applicant has,
- (b) is unable to provide a signature because the applicant is unable to read or write, or
- (c) is unable to sign in a consistent and distinctive way because of any such disability or inability.

(8) The registration officer must keep a record of those whose applications under this paragraph have been granted, showing—

- (a) their dates of birth, and
- (b) except in cases where the registration officer in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.

(9) The record kept under paragraph (8) must be retained by the registration officer for the period of twelve months beginning with the date of the poll for the referendum.

Absent voters lists

63.—(1) The registration officer must, for the purposes of the referendum, keep the two special lists mentioned in paragraphs (2) and (3) respectively.

(2) The first of those lists is a list (“the postal voters list”) of those within column 2 of the following table, together with the addresses provided as mentioned in column 3 as the addresses to which their ballot papers are to be sent.

	<i>Description of person voting by post</i>	<i>Address</i>
1	A person whose application under regulation 62(1) to vote by post in the referendum has been granted.	Address provided in the person’s application under regulation 62(1).
2	A person who— (a) is entitled to vote in the referendum and in a poll that is taken together with the referendum, (b) is included in the postal voters list for that poll, and (c) is not within entry 1 in this table or entry 1 in the table in paragraph (3).	Address provided in the application that gave rise to the person being included in the postal voters list or, if the person is included in more than one, the address provided in the latest of those applications.
3	A person who— (a) is for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by post at parliamentary elections, and (b) is not within entry 1 or 2 of this table or entry 1 or 2 in the table in paragraph (3).	Address provided in the person’s application under paragraph 3 of Schedule 4 to the RPA 2000 or (as the case may be) regulation 62(5)(a).
4	A peer who— (a) is for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by post at local government elections, (b) is not for the time being shown in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004 as voting by post, or was included in that record before being included in the record mentioned in paragraph (a) above, and	Address provided in the peer’s application under paragraph 3 of Schedule 4 to the RPA 2000 or (as the case may be) regulation 62(5)(a).

	<i>Description of person voting by post</i>	<i>Address</i>
	(c) is not within entry 1 or 2 of this table or entry 1 or 2 in the table in paragraph (3).	
5	<p>A peer who—</p> <p>(a) is for the time being shown in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004 as voting by post,</p> <p>(b) is not for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by post at local government elections, or was included in that record before being included in the record mentioned in paragraph (a) above, and</p> <p>(c) is not within entry 1 or 2 in this table or entry 1 or 2 in the table in paragraph (3).</p>	Address provided in the peer's application under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004 or (as the case may be) regulation 62(5)(a).

(3) The second of the lists mentioned in paragraph (1) is a list (“the list of proxies”) of those within column 2 of the following table, together with the names and addresses of their proxies appointed as mentioned in column 3.

	<i>Description of person voting by proxy</i>	<i>Proxy</i>
1	A person (not within entry 1 in the table in paragraph (2)) whose application under regulation 62(2), (3) or (5)(b) to vote by proxy in the referendum has been granted.	Proxy appointed under regulation 64.
2	<p>A person who—</p> <p>(a) is entitled to vote in the referendum and in a poll that is taken together with the referendum,</p> <p>(b) is included in the list of proxies for that poll, and</p> <p>(c) is not within entry 1 in this table or entry 1 or 2 in the table in paragraph (2).</p>	Proxy appointed for the purposes of that poll or, if there is more than one, the proxy appointed for the poll in respect of which the latest of the person's applications to vote by proxy was made.
3	<p>A person who—</p> <p>(a) is for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by proxy at parliamentary elections, and</p> <p>(b) is not within entry 1 or 2 of this table or entry 1 or 2 in the table in paragraph (2).</p>	Proxy appointed under paragraph 6 of Schedule 4 to the RPA 2000 for parliamentary elections.
4	<p>A peer who—</p> <p>(a) is for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by proxy at local government elections,</p> <p>(b) is not for the time being shown in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004 as voting by proxy, or was included in that record before being included in the record mentioned in paragraph (a) above, and</p> <p>(c) is not within entry 1 or 2 of this table or entry 1, 2 or 5 in the table in paragraph (2).</p>	Proxy appointed under paragraph 6 of Schedule 4 to the RPA 2000 for local government elections.

	<i>Description of person voting by proxy</i>	<i>Proxy</i>
5	<p>A peer who—</p> <p>(a) is for the time being shown in the record kept under paragraph 3 of Schedule 2 to the European Parliamentary Elections Regulations 2004 as voting by proxy,</p> <p>(b) is not for the time being shown in the record kept under paragraph 3 of Schedule 4 to the RPA 2000 as voting by proxy at local government elections, or was included in that record before being included in the record mentioned in paragraph (a) above, and</p> <p>(c) is not within entry 1 or 2 in this table or entry 1, 2 or 4 in the table in paragraph (2).</p>	Proxy appointed under paragraph 6 of Schedule 2 to the European Parliamentary Elections Regulations 2004.

(4) In the case of a person who has an anonymous entry in a register, the postal voters list or list of proxies (as the case may be) must show in relation to the person only—

- (a) his or her electoral number, and
- (b) the period for which the anonymous entry has effect.

Proxies

64.—(1) Subject to what follows, any person is capable of being appointed under this paragraph to vote as proxy for another (the “principal”) in the referendum.

(2) The principal cannot have more than one person at a time appointed as proxy to vote for him or her in the referendum.

(3) A person is capable of being appointed to vote as proxy only if—

- (a) the person is not subject to any legal incapacity (age apart) to vote in the referendum in his or her own right, and
- (b) the person is or will on the date of the poll for the referendum be registered in a relevant register.

(4) Where the principal applies to the registration officer for the appointment of a proxy under this regulation, the registration officer must make the appointment if the application meets the requirements prescribed by the relevant regulations and the officer is satisfied that the principal is or will be—

- (a) registered in a relevant register, and
- (b) entitled to vote by proxy in the referendum by virtue of an application under regulation 62(2), (3) or (5)(b),

and that the proxy is capable of being, and willing to be, appointed.

(5) The appointment of a proxy under this paragraph is to be made by means of a proxy paper issued by the registration officer in the form set out in Form 20 in Schedule 4.

(6) The appointment may be cancelled by the principal by giving notice to the registration officer and also ceases to be in force on the issue of a proxy paper appointing a different person under this paragraph to vote for the principal in the referendum.

65.—(1) Subject to what follows, where a relevant proxy appointment is in force, the person appointed is entitled to vote as proxy for the person for whom the appointment was made (the “principal”).

(2) In paragraph (1) “relevant proxy appointment” means—

- (a) in relation to a principal who is included in the list of proxies by virtue of entry 1 in the table in regulation 63(3), an appointment under regulation 64;
 - (b) in relation to a principal who is included in the list of proxies by virtue of entry 2 in that table, the appointment of the person mentioned in column 3 of that entry;
 - (c) in relation to a principal who is included in the list of proxies by virtue of entry 3 in that table, an appointment under paragraph 6 of Schedule 4 to the RPA 2000 for parliamentary elections;
 - (d) in relation to a principal who is a peer included in the list of proxies by virtue of entry 4 in that table, an appointment under paragraph 6 of Schedule 4 to the RPA 2000 for local government elections;
 - (e) in relation to a principal who is a peer included in the list of proxies by virtue of entry 5 in that table, an appointment under paragraph 6 of Schedule 2 to the European Parliamentary Elections Regulations 2004.
- (3) A person is capable of voting as proxy in the referendum only if—
- (a) the person is not subject to any legal incapacity (age apart) to vote in the referendum in his or her own right, and
 - (b) the person is registered in a relevant register.
- (4) A person is not capable of voting as proxy in the referendum unless on the date of the poll the person has attained the age of 18.
- (5) A person is not entitled to vote as proxy in the referendum on behalf of more than two others of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

Voting as proxy

- 66.**—(1) A person entitled to vote as proxy for another (the “principal”) in the referendum may do so in person at the polling station allotted to the principal under Part 2 unless the proxy is entitled to vote by post as proxy for the principal in the referendum, in which case the proxy may vote by post.
- (2) Where a person is entitled to vote by post as proxy for the principal in the referendum, the principal may not apply for a ballot paper for the purpose of voting in person in the referendum.
- (3) For the purposes of this Chapter of this Part and the 1983 Act a person entitled to vote as proxy for another in the referendum is entitled so to vote by post if the person is included in the list kept under paragraph (6).
- (4) Where a person applies to the registration officer to vote by post as proxy in the referendum the officer must grant the application if—
- (a) the officer is satisfied that the principal is or will be registered in a relevant register,
 - (b) the applicant is the subject of a relevant proxy appointment within the meaning of regulation 65(2), and
 - (c) the application contains the applicant’s signature and date of birth and meets the requirements prescribed by the relevant regulations.
- (5) A person who is the subject of a relevant proxy appointment within the meaning of regulation 65(2)(b), (c) or (d) and who—
- (a) is included in the record kept under paragraph 7(6) of Schedule 4 to the RPA 2000 (record of proxies who have applied to vote by post) in respect of parliamentary elections,
 - (b) is included in the record kept under paragraph 7(6) of Schedule 4 to the RPA 2000 (record of proxies who have applied to vote by post) in respect of local government elections, or

- (c) is included in the record kept under paragraph 7(6) of Schedule 2 to the European Parliamentary Elections Regulations 2004 (record of proxies who have applied to vote by post),

may apply to the registration officer for his or her referendum ballot paper to be sent to a different address from that shown in the record, and the officer must grant the application if it meets the requirements prescribed by the relevant regulations.

(6) The registration officer must, in respect of the referendum, keep a special list (“the proxy postal voters list”) of those within column 2 of the following table, together with the addresses provided as mentioned in column 3 as the addresses to which their ballot papers are to be sent.

	<i>Description of proxy postal voters</i>	<i>Address</i>
1	A proxy whose application under paragraph (4) has been granted.	Address provided in the proxy’s application under paragraph (4).
2	A proxy who— (a) was appointed as mentioned in column 3 of entry 2 in the table in regulation 63(3) for a person mentioned in column 2 of that entry, and (b) is included in the proxy postal voters list for the poll in respect of which that appointment was made.	Address provided in the proxy’s application to vote by post as proxy in that poll.
3	A proxy who— (a) was appointed as mentioned in column 3 of entry 3 in the table in regulation 63(3) for a person mentioned in column 2 of that entry, and (b) is for the time being included in the record kept under paragraph 7(6) of Schedule 4 to the RPA 2000 (record of proxies who have applied to vote by post).	Address provided in the proxy’s application under paragraph 7(4)(a) of Schedule 4 to the RPA 2000 or (as the case may be) paragraph (5) above.
4	A proxy who— (a) was appointed as mentioned in column 3 of entry 4 in the table in regulation 63(3) for a peer mentioned in column 2 of that entry, and (b) is for the time being included in the record kept under paragraph 7(6) of Schedule 4 to the RPA 2000 (record of proxies who have applied to vote by post).	Address provided in the proxy’s application under paragraph 7(4)(a) of Schedule 4 to the RPA 2000 or (as the case may be) paragraph (5) above.
5	A proxy who— (a) was appointed as mentioned in column 3 of entry 5 in the table in regulation 63(3) for a peer mentioned in column 2 of that entry, and (b) is for the time being included in the record kept under paragraph 7(6) of Schedule 2 to the European Parliamentary Elections Regulations 2004.	Address provided in the proxy’s application under paragraph 7(4)(a) of Schedule 2 to the European Parliamentary Elections Regulations 2004 or (as the case may be) paragraph (5) above.

(7) In the case of a person who has an anonymous entry in a register, the special list mentioned in paragraph (6) must contain only—

- (a) the person’s electoral number, and
- (b) the period for which the anonymous entry has effect.

(8) Paragraph (2) does not prevent a person, at the polling station allotted to him or her, marking a tendered ballot paper in pursuance of regulation 37.

(9) The registration officer may dispense with the requirement under paragraph (4)(c) for the applicant to provide a signature if the officer is satisfied that the applicant—

- (a) is unable to provide a signature because of any disability the applicant has,
- (b) is unable to provide a signature because the applicant is unable to read or write, or
- (c) is unable to sign in a consistent and distinctive way because of any such disability or inability.

(10) The registration officer must also keep a record in relation to those whose applications under paragraph (4) have been granted showing—

- (a) their dates of birth, and
- (b) except in cases where the registration officer in pursuance of paragraph (9) has dispensed with the requirement to provide a signature, their signatures.

(11) The record kept under paragraph (10) must be retained by the registration officer for the period of twelve months beginning with the date of the poll for the referendum.

Use of personal identifier information

67. The registration officer must either—

- (a) provide the counting officer with a copy of the information contained in records kept by the registration officer in pursuance of—
 - (i) paragraphs 3(9) and 7(12) of Schedule 4 to the RPA 2000 (dates of birth and signatures of certain electors and proxies) in relation to persons entitled to vote in the referendum,
 - (ii) paragraphs 3(9) and 7(13) of Schedule 2 to the European Parliamentary Elections Regulations 2004 (dates of birth and signatures of certain electors and proxies) in relation to peers entitled to vote in the referendum, and
 - (iii) regulations 62(8) and 66(10), or
- (b) give the counting officer access to such information.

68. Information contained in records kept by a registration officer in pursuance of regulation 62(8) or 66(10) may be disclosed by the officer to—

- (a) any other registration officer if the officer thinks that to do so will assist the other registration officer in the performance of his or her duties;
- (b) any person exercising functions in relation to the preparation or conduct of legal proceedings under the 2015 Act or the Representation of the People Acts.

Offences

69.—(1) If a person—

- (a) in any declaration or form used for any of the purposes of this Chapter of this Part, makes a statement knowing it to be false, or
- (b) attests an application under regulation 62 knowing—
 - (i) that he or she is not authorised to do so, or
 - (ii) that it contains a statement which is false,

that person commits an offence.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale.
- (3) If a person provides false information in connection with an application under regulation 62(1) or (2) or 66(4), that person commits an offence.
- (4) In relation to a signature, “false information” for the purposes of paragraph (3), 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.
- (5) A person does not commit an offence under paragraph (3) if the person did not know, and had no reason to suspect, that the information was false.
- (6) Where sufficient evidence is adduced to raise an issue with respect to the defence under paragraph (5), the court is to assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (7) A person guilty of an offence under paragraph (3) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks or to a fine, or to both;
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.
- (8) The reference in paragraph (7)(a) to 51 weeks is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003(10).

(10) 2003 c.44.