
DRAFT STATUTORY INSTRUMENTS

2016 No.

The European Union Referendum (Conduct) Regulations 2016

PART 3

ABSENT VOTING IN THE REFERENDUM IN THE UNITED KINGDOM

CHAPTER 2

NORTHERN IRELAND

Overview and interpretation

70.—(1) This Chapter of this Part contains provision about voting in the referendum in Northern Ireland.

(2) In this Chapter of this Part—

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

“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 electors, or

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

“the 2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(1) as applied by Part 2 of Schedule 3;

“the 1985 Act” means the Representation of the People Act 1985.

Manner of voting in the referendum

71.—(1) This regulation applies to determine the manner of voting in Northern Ireland 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

(1) [S.I. 2008/1741](#). 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](#).

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 Northern Ireland 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
- (b) by the counting officer.

(7) Nothing in this regulation applies to—

- (a) a person to whom section 7 of the 1983 Act (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;
- (b) a person to whom section 7A of the 1983 Act (persons remanded in custody) applies, whether the person is registered by virtue of that provision or not;
- (c) a person who has an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland;

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).

(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.

Entitlement to vote by post or by proxy

72.—(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 74(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 74(3) as entitled to vote by proxy in the referendum.

Application to vote by post or by proxy in the referendum

73.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, 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,
- (b) 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,
- (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth in pursuance of section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act(2),

(2) 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 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).

- (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act⁽³⁾ applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature in pursuance of section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
 - (e) the application either states the applicant's national insurance number or states that the applicant does not have one, and the registration officer is satisfied as mentioned in paragraph (2) below, and
 - (f) the application meets the requirements prescribed by the 2008 Regulations.
- (2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—
- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or
 - (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as the applicant's national insurance number in pursuance of section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
- (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number in pursuance of section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
 - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) Nothing in paragraph (1) applies to—
- (a) a person who is included in the record kept under section 6 of the 1985 Act (absent vote at parliamentary elections for indefinite period),
 - (b) a peer who is included in the record kept under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (absent vote at local elections for indefinite period), or
 - (c) a peer who is included in the record kept under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004⁽⁴⁾ (absent vote at elections for indefinite period).
- (5) But if a person is included in a record mentioned in paragraph (4)(a), (b) or (c) 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 in the United Kingdom from that shown in the record, or
 - (b) to vote by proxy.
- (6) The registration officer must grant an application under paragraph (5) if it meets the requirements prescribed by the 2008 Regulations.
- (7) A person applying to vote by post must provide an address in the United Kingdom as the address to which the person's ballot paper is to be sent.

(3) 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).

(4) S.I. 2004/1267.

Absent voters lists

74.—(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 73(1) to vote by post in the referendum has been granted.	Address provided in the person’s application under regulation 73(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 shown in the absent voters list for that poll as voting by post, 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 absent 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 section 6 of the 1985 Act 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 section 6 of the 1985 Act or (as the case may be) regulation 73(5)(a).
4	A peer who— (a) is for the time being shown in the record kept under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985, (b) is not for the time being shown in the record kept under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 as voting by post, or was included in that record before being included in the record mentioned in paragraph (a) above, and (c) 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 peer’s application under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 or (as the case may be) regulation 73(5)(a).
5	A peer who— (a) is for the time being shown in the record kept under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 as voting by post, (b) is not for the time being shown in the record kept under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985, or was included in that record before being included in the record mentioned in paragraph (a) above, and (c) is not within entry 1 or 2 in this table or entry 1 or 2 in the table in paragraph (3).	Address provided in the peer’s application under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 or (as the case may be) regulation 73(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 73(1) or (5)(b) to vote by proxy in the referendum has been granted.	Proxy appointed under regulation 75.
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 shown in the absent voters list for that poll as voting by proxy, and (c) is not within entry 1 in this table or entry 1 or 2 in the table in paragraph (2).	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	A person who— (a) is for the time being shown in the record kept under section 6 of the 1985 Act as voting by proxy 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 (2).	Proxy appointed under section 8 of the 1985 Act(5) for parliamentary elections.
4	A peer who— (a) is for the time being shown in the record kept under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 as voting by proxy, (b) is not for the time being shown in the record kept under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 as voting by proxy, or was included in that record before being included in the record mentioned in paragraph (a) above, and (c) is not within entry 1 or 2 of this table or entry 1, 2 or 5 in the table in paragraph (2).	Proxy appointed under paragraph 3 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985.
5	A peer who— (a) is for the time being shown in the record kept under regulation 8 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 as voting by proxy, (b) is not for the time being shown in the record kept under paragraph 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 as voting by proxy, or was included in that record before being included in the record mentioned in paragraph (a) above, and (c) is not within entry 1 or 2 in this table or entry 1, 2 or 4 in the table in paragraph (2).	Proxy appointed under regulation 10 of the European Parliamentary Elections (Northern Ireland) Regulations 2004(6).

(5) Section 8 was amended by table (2) in Schedule 27 to the Finance Act 1985 (c.54); paragraphs 12 and 16 of Schedule 6 to the Representation of the People Act 2000 (c.2); paragraphs 7 and 8 of Schedule 2 to S.I. 1995/1948; and paragraph 7(1) and (3) of Schedule 4 to S.I. 2005/3129.

(6) Regulation 10 was amended by paragraph 2(1) and (3) of Schedule 9 to S.I. 2005/2114.

(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 date on which the person's entitlement to remain registered anonymously will terminate under section 9C(1A) of the 1983 Act⁽⁷⁾ (in the absence of a further application under section 9B of that Act).

Proxies

75.—(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 either a Commonwealth citizen or a citizen of the Republic of Ireland.

(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 2008 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 73(1) 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, in the form set out in Form 21 in Schedule 4, issued by the registration officer.

(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.

76.—(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 74(3), an appointment under regulation 75;
- (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 section 8 of the 1985 Act 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 3 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985;

(7) Section 9C was inserted by section 10(1) of the Electoral Administration Act 2006 (c.22). Subsection (1A) of section 9C was inserted by article 3(3)(b) of S.I. 2014/1116.

- (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 regulation 10 of the European Parliamentary Elections (Northern Ireland) 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 either a Commonwealth citizen or a citizen of the Republic of Ireland.
- (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

77.—(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) But in the case of a person entitled to vote as proxy for an elector who has an anonymous entry in a register—

- (a) paragraph (1) does not apply, and
- (b) the person may only so vote by post (where the person is entitled as a proxy to vote by post in the referendum).

(3) 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.

(4) 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 (8).

(5) 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 76(2),
- (c) any of the conditions in paragraph (6) are met,
- (d) the application specifies an address in the United Kingdom as the address to which the ballot paper is to be sent, and
- (e) the application meets the requirements prescribed by the 2008 Regulations.

(6) The conditions in this paragraph are that—

- (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 principal under Part 2,
- (b) the applicant is, or the officer is satisfied that the applicant will be, included in the postal voters list or the list of proxies, or
- (c) the principal is an elector who has an anonymous entry in a register.

(7) A person who is the subject of a relevant proxy appointment within the meaning of regulation 76(2)(b), (c) or (d) and who—

- (a) is included in the record kept under section 9(6) of the 1985 Act⁽⁸⁾ (record of proxies who have applied to vote by post) in respect of parliamentary elections,
- (b) is included in the record kept under paragraph 4(5) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (record of proxies who have applied to vote by post), or
- (c) is included in the record kept under regulation 11(5) of the European Parliamentary Elections (Northern Ireland) 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 in the United Kingdom from that shown in the record, and the officer must grant the application if it meets the requirements prescribed by the 2008 Regulations.

(8) 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 (5) has been granted.	Address provided in the proxy’s application under paragraph (5).
2	A proxy who— (a) was appointed as mentioned in column 3 of entry 2 in the table in regulation 74(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 74(3) for a person mentioned in column 2 of that entry, and (b) is for the time being included in the record kept under section 9(6) of the 1985 Act.	Address provided in the proxy’s application under section 9(4) of the 1985 Act ⁽⁹⁾ or (as the case may be) paragraph (7) above.
4	A proxy who— (a) was appointed as mentioned in column 3 of entry 4 in the table in regulation 74(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 4(5) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985.	Address provided in the proxy’s application under paragraph 4(4) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 or (as the case may be) paragraph (7) above.
5	A proxy who— (a) was appointed as mentioned in column 3 of entry 5 in the table in regulation 74(3) for a peer mentioned in column 2 of that entry, and (b) is for the time being included in the record kept under regulation 11(5) of the European Parliamentary Elections (Northern Ireland) Regulations 2004.	Address provided in the proxy’s application under regulation 11(4) of the European Parliamentary Elections (Northern Ireland) Regulations 2004 or (as the case may be) paragraph (7) above.

⁽⁸⁾ Section 9(6) was amended by paragraphs 12 and 17(1) and (5) of Schedule 6 to the Representation of the People Act 2000 (c.2).
⁽⁹⁾ Section 9(4) was amended by paragraphs 12 and 17(1) and (3) of Schedule 6 to the Representation of the People Act 2000 (c.2) and article 5(1) and (5)(b) of S.I. 2014/1116.

(9) In the case of a person who has an anonymous entry in a register, the proxy postal voters list must contain only—

- (a) the person’s electoral number, and
- (b) the date on which the person’s entitlement to remain registered anonymously will terminate under section 9C(1A) of the 1983 Act (in the absence of a further application under section 9B of that Act).

(10) Paragraph (3) does not prevent a person, at the polling station allotted to him or her, marking a tendered ballot paper in pursuance of regulation 37.

Offences

78.—(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 73 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 on summary conviction 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 73(1) or 77(5), that person is guilty of 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 Act) 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 on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.