

SCHEDULE 1

VOTING IN THE REFERENDUM

PART 1

Manner of voting

Persons entitled to vote

1.—(1) This paragraph applies to determine the manner of voting of a person entitled to vote as an elector in the referendum (1).

(2) The person may vote in person at the polling station allotted to that person under rule 13 of the Referendum Rules, unless that person is entitled to vote by post or by proxy in the referendum.

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

(4) If the person (“P”) is entitled to vote by proxy in the referendum, P may so vote unless, before a ballot paper has been issued for P to vote by proxy, P applies at the polling station allotted to P under rule 13 of the Referendum Rules for a ballot paper for the purpose of voting in person, in which case P may vote in person there.

(5) If a person —

(a) is not entitled to vote by post or by proxy in the referendum, but

(b) cannot reasonably be expected to go in person to the polling station allotted to that person under rule 13 of the Referendum Rules because of the particular circumstances of the person’s employment, either as a constable or by the counting officer, on the day of the poll for a purpose connected with the referendum,

that person may vote in person at any polling station in the voting area in which the polling station allotted to the person is situated.

(6) Nothing in the preceding provisions of this paragraph applies to a person to whom section 7 of the 1983 Act(2) (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 that person is registered by virtue of that provision or not, and such a person may vote—

(a) in person at the polling station allotted to the person under rule 13 of the Referendum Rules (where granted permission to be absent from the hospital and voting in person does not breach any condition attached to the permission), or

(b) by post or by proxy (where entitled so to vote at the referendum).

(7) Nothing in the preceding provisions of this paragraph applies to a person to whom section 7A of the 1983 Act(3) (person remanded in custody) applies, whether that person is registered by virtue of that provision or not, and such a person may only vote by post or by proxy (where entitled so to vote in the referendum).

(8) A person entitled to vote in the referendum is entitled to vote —

(a) by post in the referendum if that person is shown in the postal voters list as so entitled for the referendum, or

(1) See paragraph 1 of Schedule 6 to the Government of Wales Act 2006 (c.32) as read with section 12 of that Act.

(2) Section 7 of the Representation of the People Act 1983 (c.2) was substituted by section 4 of the Representation of the People Act 2000 (c.2) and to which there are relevant amendments by section 12(1) of the Electoral Administration Act 2006 (c.22) and by S.I. 2005/2078, Schedule 1 paragraph 1(3).

(3) Section 7A was inserted by section 5 of the Representation of the People Act 2000 and to which there are relevant amendments by section 12(2) of the Electoral Administration Act 2006 and by S.I.2005/2078 Schedule 1 paragraph 1(4).

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(b) by proxy in the referendum if that person is shown in the list of proxies as so entitled for the referendum.

(9) Sub-paragraph (2) does not prevent a person, at the polling station allotted to that person, marking a tendered ballot paper in pursuance of rule 28(6) of the Referendum Rules.

Existing postal and proxy voters

2.—(1) An elector is taken to have been granted a vote by post in the referendum if, at the relevant time, the elector is shown in the record kept under article 8(3) of the 2007 Order (*absent vote at Assembly elections for a particular or an indefinite period*) as voting by post at elections for the Assembly⁽⁴⁾ (in this Schedule referred to as “Assembly elections”) for an indefinite period or for a period which extends beyond the date of the poll at the referendum.

(2) Such a person is referred to in this Order as an “existing postal voter”.

(3) An elector is taken to have been granted a vote by proxy in the referendum if, at the relevant time, the person is shown in the record kept under article 8(3) of the 2007 Order as voting by proxy at Assembly elections for an indefinite period or for a period which extends beyond the date of the poll at the referendum.

(4) Such a person is referred to in this Order as an “existing proxy voter”.

(5) Sub-paragraph (1) does not apply to a person if the person is granted a vote by proxy by virtue of an application under paragraph 3.

Applications by electors for absent vote

3.—(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 registration officer is satisfied that the applicant is, or on the date of the poll will be, registered in the register maintained by the officer; and
- (b) the application meets the requirements set out in paragraph 9.

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

- (a) the registration officer is satisfied that the applicant’s circumstances on the day 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 rule 13 (*provision of polling stations*) of the Referendum Rules;
- (b) the registration officer is satisfied that the applicant is, or on the date of the poll will be, registered in the register maintained by the officer; and
- (c) the application meets the requirements set out in paragraphs 9 and 10.

(3) Where an elector who has an anonymous entry in the register maintained by a registration officer applies to the registration officer under paragraph (2) to vote by proxy in the referendum, the registration officer must grant the application if it meets the requirements set out in paragraph 9.

(4) Sub-paragraphs (1) and (2) do not apply to an elector who is an existing postal voter or an existing proxy voter.

(5) If an existing postal voter applies to the registration officer for the ballot paper, in respect of the referendum, to be sent to a different address from that shown in the record referred to in paragraph 2(1) in relation to that existing postal voter, the registration officer must grant the application if it meets the requirements set out in paragraph 9.

⁽⁴⁾ See Part 1 of the Government of Wales Act 2006 for the National Assembly for Wales and elections to it.

(6) If an existing postal voter applies to the appropriate registration officer to vote by proxy in the referendum, the registration officer must grant the application if—

- (a) the registration officer is satisfied that the applicant's circumstances on the date of the poll in the referendum will be or will be likely to be such that the person cannot reasonably be expected to vote in person at the polling station allotted, or likely to be allotted, to the person under rule 13 of the Referendum Rules; and
- (b) the application meets the requirements set out in paragraphs 9 and 10.

(7) 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 has dispensed with the requirement to provide a signature, their signatures,

as provided in accordance with the requirements set out in paragraph 9 and, as the case may be, paragraph 10.

(8) The record kept under sub-paragraph (7) must be retained by the registration officer for the period of twelve months beginning with the date of the poll at the referendum.

Absent voters lists

4.—(1) The registration officer must keep the 2 lists mentioned in sub-paragraphs (2) and (3).

(2) The first of those lists is a list (“the postal voters list”) of—

- (a) those who are existing postal voters (excluding those whose applications to vote by proxy under paragraph 3(6) have been granted), together with the addresses, as the case may be—
 - (i) shown in the record mentioned in paragraph 2(1) kept by the registration officer, or
 - (ii) provided by them in any application granted under paragraph 3(5),

as the addresses to which their ballot papers are to be sent; and

- (b) those granted a vote by post in the referendum by the registration officer by virtue of an application under paragraph 3(1) together with the addresses provided by them in their application as the addresses to which their ballot papers are to be sent.

(3) The second of those lists is a list (“the list of proxies”) of—

- (a) those who are existing proxy voters by reason of an entry in the record mentioned in paragraph 2(3) kept by the registration officer; and
- (b) those granted a vote by proxy in the referendum by the registration officer by virtue of an application under paragraph 3(2) or (6),

together (in each case) with the names and addresses of those appointed as their proxies.

(4) In the case of an elector who has an anonymous entry in the register, any entry in the postal voters list or list of proxies, as the case may be, must show in relation to the elector only the elector's electoral number and the period for which the anonymous entry has effect.

Proxies

5.—(1) Subject to the provisions of this paragraph, any person is capable of being appointed as a proxy to vote for an elector in the referendum and may vote in pursuance of the appointment.

(2) An elector cannot have more than one person at a time appointed as a proxy to vote for the elector in the referendum.

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(3) A person is not capable of being appointed to vote, or of voting, as a proxy in the referendum if—

- (a) the person is subject to any legal incapacity (age apart) to vote in the referendum in that person's own right, or
- (b) the person is neither a qualifying Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union.

(4) A person is not capable of voting as a proxy in the referendum unless, on the day of the poll, the person has attained the age of eighteen.

(5) A person is not entitled to vote as a proxy in the referendum on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(6) If there is an existing proxy for an existing proxy voter, the existing proxy is to be treated as having been appointed under this paragraph as a proxy to vote for that existing proxy voter in the referendum.

(7) In sub-paragraph (6), “existing proxy” means, in relation to an existing proxy voter, a person appointed under article 11(6) of the 2007 Order (*proxies at Assembly elections*) as a proxy to vote for the existing proxy voter at Assembly elections for an indefinite period or for a period which extends beyond the date of the poll at the referendum.

(8) Where an elector applies to the registration officer for the appointment of a proxy to vote in the referendum, the registration officer must make the appointment if—

- (a) the registration officer is satisfied that the applicant—
 - (i) is, or on the date of the poll will be, registered in the register maintained by the officer, and
 - (ii) is entitled to vote by proxy in the referendum by virtue of paragraph 2(3) or an application under paragraph 3;
- (b) the registration officer is satisfied that the proxy is capable of being and willing to be appointed; and
- (c) the application meets the requirements in paragraphs 9 and 10.

(9) The appointment of a proxy under this paragraph is to be made by means of a proxy paper (in the form A set out in Schedule 6) issued by the registration officer to the proxy.

(10) The appointment of a proxy to vote for an elector in the referendum—

- (a) may be cancelled by the elector by giving notice to the registration officer, and
- (b) ceases to be in force on the issue of a proxy paper appointing a different person to vote as proxy for the elector in the referendum.

Voting as proxy

6.—(1) A person entitled to vote as proxy for an elector in the referendum may do so in person at the polling station allotted to the elector under rule 13 of the Referendum Rules unless the person is entitled to vote by post as proxy for that elector in the referendum, in which case the person may vote by post.

(2) Where a person is entitled to vote by post as proxy for an elector in the referendum, the elector may not apply for a ballot paper for the purpose of voting in person at the referendum.

(3) For the purposes of this Schedule, a person entitled to vote as proxy for an elector in the referendum is entitled to vote by post if that person is included in the proxy postal voters list kept under sub-paragraph (8).

(4) An existing proxy is to be treated as having been granted a vote by post as proxy at the referendum if the existing proxy is, at the relevant time, shown in the record kept under article 12(6) of the 2007 Order (*voting as proxy at Assembly elections*) as voting by post as proxy at Assembly elections for an indefinite period or for a period which extends beyond the day of the poll at the referendum.

(5) In sub-paragraph (4), “existing proxy” means a person who is to be treated as having been appointed as proxy by virtue of paragraph 5(6).

(6) Where such an existing proxy applies to the registration officer for the ballot paper to be sent to a different address from that shown in the record kept under the said article 12(6), the registration officer must grant the application if it meets the requirements set out in paragraph 9.

(7) Where a person applies to the registration officer to vote by post as proxy for an elector in the referendum, the registration officer must grant the application if—

- (a) the registration officer is satisfied that the elector is, or on the date of the poll will be, registered in the register maintained by the officer;
- (b) there is in force an appointment of the applicant as the elector’s proxy to vote for the elector in the referendum; and
- (c) the application meets the requirements in paragraph 9.

(8) The registration officer must keep a list (“the proxy postal voters list”) of—

- (a) those treated as having been granted a vote by post as proxy by virtue of sub-paragraph (4) together with the addresses as the case may be—
 - (i) shown in the record mentioned in that sub-paragraph kept by the registration officer, or (as the case may be)
 - (ii) provided by them in their applications granted under sub-paragraph (6), as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under sub-paragraph (7) have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(9) In the case of an elector who has an anonymous entry in the register, the proxy postal voters list must contain only the elector’s electoral number and the period for which the anonymous entry has effect.

(10) Sub-paragraph (2) does not prevent an elector at the polling station allotted to the elector under rule 13 of the Referendum Rules, from marking a tendered ballot paper in pursuance of rule 28(6) of those Rules.

(11) The registration officer must keep a record of those whose applications under sub-paragraph (7) have been granted, showing —

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

as provided in accordance with the requirements set out in paragraph 9.

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

Use of personal identifier information

7. Where the registration officer is not the counting officer for any voting area that is the same as or falls wholly or partly within the registration officer’s area, the registration officer must provide

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the counting officer for that voting area with a copy of the information contained in the records kept by the registration officer in pursuance of —

- (a) paragraphs 3(7) and 6(11); and
- (b) articles 8(9) and 12 (13) of the 2007 Order in relation to persons entitled to an absent vote in the referendum by virtue of paragraph 2(3) or 6(4).

8. Information contained in records kept by a registration officer in pursuance of paragraph 3(7) or 6(11) may be disclosed by the officer to —

- (a) any other registration officer if the officer by whom the information is kept thinks that to do so will assist the other registration officer in the performance of that other officer's duties; and
- (b) any person exercising functions in relation to the preparation or conduct of legal proceedings under this Order.