

## SCHEDULE 6 OFFENCES

### *Other voting offences*

- 2 (1) A person (“A”) commits an offence if—
- (a) A votes in person or by post in the referendum, whether as a voter or as proxy, or applies to vote by proxy or by post as a voter or as proxy in the referendum knowing that A is subject to a legal incapacity to vote in the referendum,
  - (b) A applies for the appointment of a proxy to vote for A in the referendum knowing that A or the person to be appointed is subject to a legal incapacity to vote in the referendum, or
  - (c) A 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 date of the referendum, include the person's being below voting age if the person will be of voting age on that date.
- (3) A person (“A”) commits an offence if—
- (a) A votes as a voter more than once in the referendum,
  - (b) A votes as a voter in person in the referendum when A is entitled to vote by post,
  - (c) A votes as a voter in person in the referendum knowing that a person appointed to vote as A'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) A applies for a person to be appointed as A's proxy to vote for A 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 (“A”) commits an offence if—
- (a) A votes as proxy for the same voter more than once in the referendum,
  - (b) A votes in person as proxy for a voter in the referendum when A is entitled to vote by post as proxy in the referendum for that voter,
  - (c) A votes in person as proxy for a voter in the referendum knowing that the voter has already voted in person or by post in the referendum, or
  - (d) A votes by post as proxy for a voter in the referendum knowing that the voter has already voted in person or by post in the referendum.
- (5) A person (“A”) commits an offence if A votes in the referendum as proxy for more than two persons of whom A is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- (6) A person (“A”) commits an offence if A knowingly induces or procures some other person to do an act which is, or but for that other person's lack of knowledge would be, an offence by that other person under any of sub-paragraphs (1) to (5).
- (7) For the purposes of this paragraph a person is deemed to have voted if the person—
- (a) has applied for a ballot paper for the purpose of voting in person, or

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**Changes to legislation:** There are currently no known outstanding effects for the Referendums (Scotland) Act 2020, Cross Heading: Other voting offences. (See end of Document for details)

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- (b) has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post.
- (8) 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.
- (9) A person does not commit an offence under sub-paragraph (3)(b) or (4)(b) only by reason of the person's having marked a tendered ballot paper in pursuance of rule 24 of the conduct rules.
- (10) An offence under this paragraph is an illegal practice, but the court before which 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 18.
- (11) In this paragraph “legal incapacity to vote” has the meaning given by section 5.

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