

SCHEDULES

SCHEDULE 3

Section 3

FURTHER PROVISION ABOUT THE REFERENDUM

Interpretation

- 1 In this Schedule a reference to functions includes functions conferred by any provision of law made in and for Gibraltar.

Appointment of Chief Counting Officer

- 2 (1) Section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum with the following modifications.
- (2) Subsection (2) has effect for those purposes as if—
- (a) the words “(subject to subsection (8))” were omitted, and
 - (b) in paragraph (b), after “appoints” there were inserted “in writing”.
- (3) For the purposes of the referendum subsection (8) is to be treated as omitted.
- (4) See also paragraphs 4 and 6 (which contain additional modifications of section 128 of the 2000 Act for the purposes of the referendum).

Counting officers

- 3 (1) This paragraph applies to determine, for the purposes of the referendum, who is a counting officer in relation to a voting area.
- (2) The counting officer for a voting area that is—
- (a) a district in England,
 - (b) a county in England, or
 - (c) a London borough,
- is the person who, by virtue of section 35 of the 1983 Act, is the returning officer for elections of councillors of the district, county or borough.
- (3) The counting officer for the City of London voting area is the person who, by virtue of that section, is the returning officer for elections of councillors of the London borough of Westminster.
- (4) The counting officer for the Isles of Scilly voting area is the person who, by virtue of that section, is the returning officer for elections to the Council of the Isles of Scilly.
- (5) The counting officer for a voting area that is a county or a county borough in Wales is the person who, by virtue of that section, is the returning officer for elections of councillors of the county or county borough.

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- (6) The counting officer for a voting area that is a local government area in Scotland is the person who, by virtue of section 41 of the 1983 Act, is the returning officer for elections of councillors of the local government area.
 - (7) The counting officer for the Northern Ireland voting area is the Chief Electoral Officer for Northern Ireland.
 - (8) The counting officer for the Gibraltar voting area is the Clerk to the Gibraltar Parliament.
- 4 (1) Accordingly, section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum with the following modifications.
- (2) For the purposes of the referendum subsection (3) is to be treated as omitted.
 - (3) Subsection (5) has effect for the purposes of the referendum as if for the words “the area for which he is appointed” there were substituted “the voting area for which the counting officer acts”.
 - (4) Subsection (9) has effect for the purposes of the referendum as if—
 - (a) for paragraph (a) there were substituted—
 - “(a) voting area” has the meaning given by section 11 of the European Union Referendum Act 2015;”,
 - (b) paragraph (b) were omitted, and
 - (c) for paragraph (c) there were substituted—
 - “(c) the referendum area” means the United Kingdom and Gibraltar.”

Regional Counting Officers

- 5 (1) For the purposes of the referendum, the Chief Counting Officer may appoint a Regional Counting Officer for any of the following regions—
- East Midlands;
 - Eastern;
 - London;
 - North East;
 - North West;
 - South East;
 - South West and Gibraltar;
 - West Midlands;
 - Yorkshire and the Humber;
 - Scotland;
 - Wales.
- (2) Where—
- (a) a region mentioned in sub-paragraph (1) (a “listed region”), and
 - (b) a region mentioned in the Table in Schedule 1 to the European Parliamentary Elections Act 2002 (an “electoral region”),
- have the same name, the listed region comprises the areas specified in relation to that electoral region in that Table as they are for the time being.

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- (3) The South West and Gibraltar region mentioned in sub-paragraph (1) comprises the areas specified in relation to the South West region in that Table as they are for the time being.
- (4) In determining for the purposes of sub-paragraph (2) or (3) what the areas are that are specified in that Table, paragraph 2(2) of Schedule 1 to the European Parliamentary Elections Act 2002 is to be ignored.

Assistance to counting officers etc

- 6 (1) A local authority whose area forms a particular voting area must place the services of their officers at the disposal of—
 - (a) the counting officer for the voting area, and
 - (b) the Regional Counting Officer (if any) appointed for the region that includes the voting area,for the purpose of assisting the officer in the discharge of his or her functions.
- (2) In this paragraph “local authority”—
 - (a) in the case of a voting area that is a district or county in England, or a London borough, means the council for that district, county or borough;
 - (b) in the case of the City of London voting area, means the Common Council of the City of London;
 - (c) in the case of the Isles of Scilly voting area, means the Council of the Isles of Scilly;
 - (d) in the case of a voting area in Wales, means the council of the county or county borough;
 - (e) in the case of a voting area in Scotland, means the council of the local government area.
- (3) The Government of Gibraltar must place the services of its public officers at the disposal of—
 - (a) the Clerk to the Gibraltar Parliament, as counting officer for the Gibraltar voting area, and
 - (b) the Regional Counting Officer (if any) appointed for the South West and Gibraltar region,for the purpose of assisting the officer in the discharge of his or her functions as counting officer or as Regional Counting Officer (as the case may be).
- (4) Accordingly, section 128 of the 2000 Act (Chief Counting Officers, and counting officers, for referendums) has effect for the purposes of the referendum as if subsection (4) were omitted.

General duties of counting officers etc

- 7 (1) The Chief Counting Officer, Regional Counting Officers and counting officers must do whatever things are necessary for conducting the referendum in the manner provided—
 - (a) by and under this Act, and
 - (b) in the case of the Chief Counting Officer, the Regional Counting Officer (if any) appointed for the South West and Gibraltar region and the counting officer for the Gibraltar voting area, by Gibraltar conduct law.

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- (2) The counting officer for a voting area is responsible, as regards that area, for—
- (a) the conduct of the poll,
 - (b) (subject to sub-paragraph (3)) the printing of the ballot papers,
 - (c) the issue and receipt of postal ballot papers for persons entitled to vote on their own behalf in the referendum and for their proxies,
 - (d) the counting of the votes cast, and
 - (e) any other matters specified in conduct regulations or Gibraltar conduct law (as the case may be).
- (3) Responsibility for the printing of the ballot papers for a voting area may be taken—
- (a) by the Chief Counting Officer;
 - (b) in the case of a voting area in a region for which a Regional Counting Officer is appointed, by the Chief Counting Officer or the Regional Counting Officer.

The Chief Counting Officer or Regional Counting Officer may direct the counting officer concerned accordingly.

- (4) In the case of a region for which a Regional Counting Officer is appointed for the purposes of the referendum, the officer must certify as regards the votes cast in the region—
- (a) the total number of ballot papers counted, and
 - (b) the total number of votes cast in favour of each answer to the question asked in the referendum.

Where two or more forms of ballot paper are used in the referendum, a separate number must be certified under paragraph (a) in relation to each form of ballot paper used.

- (5) The Chief Counting Officer may give Regional Counting Officers or counting officers—
- (a) directions about the discharge of their functions;
 - (b) directions requiring them to take specified steps in preparation for the referendum;
 - (c) directions requiring them to provide the Chief Counting Officer with information that they have or are entitled to have.
- (6) A Regional Counting Officer for a region may give counting officers for voting areas within that region—
- (a) directions about the discharge of their functions;
 - (b) directions requiring them to take specified steps in preparation for the referendum;
 - (c) directions requiring them to provide the Regional Counting Officer with information that they have or are entitled to have.
- (7) A power under this paragraph of a Regional Counting Officer to give a direction to a counting officer is exercisable only in accordance with a specific or general authorisation or direction given by the Chief Counting Officer.
- (8) A person to whom a direction is given under this paragraph must comply with it.
- (9) This paragraph applies in addition to section 128 of the 2000 Act (as modified by this Schedule).

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- (10) The number of ballot papers or votes purportedly certified under this paragraph or section 128 of the 2000 Act is not liable to be questioned by reason of a defect in the title, or a lack of title, of any person purporting to exercise functions in relation to the referendum, if the person was then in actual possession of, or acting in, the office giving the right to exercise the functions.

Appointment of deputies and clerks

- 8 (1) The Chief Counting Officer or a Regional Counting Officer or counting officer may appoint deputies to carry out any or all of the officer's functions.
- (2) An appointment under sub-paragraph (1) must be in writing.
- (3) A Regional Counting Officer may appoint however many clerks are necessary to assist in carrying out the officer's functions.

Counting officers etc: correction of procedural errors

- 9 (1) A Regional Counting Officer or counting officer may take whatever steps the officer thinks appropriate to remedy any act or omission on the part of the officer or a relevant person that—
- (a) arises in connection with any function that the officer or relevant person has in relation to the referendum, and
 - (b) is not in accordance with any requirements applicable to the referendum imposed as described in sub-paragraph (4) or otherwise.
- (2) A re-count of votes in reliance on sub-paragraph (1) may only be conducted in the circumstances (if any) specified in conduct regulations or Gibraltar conduct law (as the case may be).
- (3) For the purposes of this paragraph each of the following is a “relevant person”—
- (a) a registration officer;
 - (b) the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003);
 - (c) a clerk of, or a person providing goods or services to, the Regional Counting Officer or the counting officer;
 - (d) any person designated by conduct regulations or Gibraltar conduct law as a relevant person for the purposes of this sub-paragraph;
 - (e) a deputy or assistant of—
 - (i) the Regional Counting Officer or the counting officer, or
 - (ii) a person mentioned in paragraph (a), (b), (c) or (d).
- (4) For the purposes of sub-paragraph (1)(b) requirements are imposed as described in this sub-paragraph if they are imposed—
- (a) by or under this Act, or
 - (b) in the case of the Regional Counting Officer (if any) appointed for the South West and Gibraltar region, the counting officer for the Gibraltar voting area or a Gibraltar relevant person, by any provision of law made in and for Gibraltar.
- (5) For the purposes of sub-paragraph (4)(b) each of the following relevant persons is a “Gibraltar relevant person”—

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- (a) the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003);
 - (b) a clerk of the Regional Counting Officer (if any) appointed for the South West and Gibraltar region;
 - (c) a person providing goods or services to the Regional Counting Officer (if any) appointed for the South West and Gibraltar region or to the counting officer for the Gibraltar voting area;
 - (d) any person designated by conduct regulations or Gibraltar conduct law as a relevant person for the purposes of this sub-paragraph;
 - (e) a deputy or assistant of—
 - (i) the Regional Counting Officer (if any) appointed for the South West and Gibraltar region or the counting officer for the Gibraltar voting area, or
 - (ii) a person mentioned in paragraph (a), (b), (c) or (d).
- (6) For the purposes of sub-paragraph (3)(e) and (5)(e) a person (“A”) is an assistant of another person (“P”) if—
- (a) A is appointed to assist P, or
 - (b) in the course of employment A is assisting P,
- in connection with any function in relation to the referendum.

Public notices

- 10 A public notice required by or under this Act or Gibraltar conduct law to be given by the Chief Counting Officer, a Regional Officer or a counting officer must be given—
- (a) by posting the notice in some conspicuous place in the area or region for which the officer acts, or
 - (b) in whatever other manner the officer thinks desirable for publicising it.

Role of Electoral Commission

- 11 (1) The Electoral Commission must take whatever steps they think appropriate to promote public awareness about the referendum and how to vote in it.
- (2) Following the referendum, the Electoral Commission must—
- (a) publish the most accurate estimate that it is reasonably possible to make of the turnout in each of England, Wales, Scotland, Northern Ireland and Gibraltar, and
 - (b) include that information in any report they submit under section 6(1)(b) of the 2000 Act which relates to the referendum.
- (3) In sub-paragraph (2) “turnout” means the percentage of those entitled to vote in the referendum who did so.
- (4) The reference in sub-paragraph (3) to those entitled to vote in the referendum who did so includes any persons entitled to vote who conduct regulations or Gibraltar conduct law provides are to be treated for the purposes of sub-paragraph (3) as having voted.

Encouraging participation

- 12 (1) The Chief Counting Officer must take whatever steps the officer thinks appropriate to encourage participation in the referendum.

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- (2) An officer to whom sub-paragraph (3) applies must take whatever steps the officer thinks appropriate to encourage participation in the referendum in the area or region for which the officer acts.
- (3) This sub-paragraph applies to—
 - (a) a Regional Counting Officer;
 - (b) a counting officer;
 - (c) a registration officer.
- (4) The Chief Counting Officer must take whatever steps the officer thinks appropriate to facilitate co-operation between that officer and the officers to whom sub-paragraph (3) applies in taking any steps under sub-paragraph (1) or (2).
- (5) In discharging the duty imposed by sub-paragraph (1) or (2) an officer must have regard to any guidance issued by the Electoral Commission.
- (6) The Minister may reimburse any expenditure incurred by an officer for the purposes of sub-paragraph (1) or (2).
- (7) A reference in this paragraph to “a registration officer” includes the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003).

Supply and use of register of electors

- 13 (1) The Representation of the People (England and Wales) Regulations 2001 ([S.I. 2001/341](#)) have effect for the purposes of the referendum with the following modifications.
- (2) Regulation 106 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
 - (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “, and
 - (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants), and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”
- 14 (1) The Representation of the People (Scotland) Regulations 2001 ([S.I. 2001/497](#)) have effect for the purposes of the referendum with the following modifications.
- (2) Regulation 105 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
 - (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “, and

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- (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants), and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”
- 15 (1) The Representation of the People (Northern Ireland) Regulations 2008 ([S.I. 2008/1741](#)) have effect for the purposes of the referendum with the following modifications.
- (2) Regulation 105 (supply of full register etc to registered political parties etc and restrictions on use) has effect for those purposes as if—
- (a) in paragraph (1)(c), for “, other than a registered political party” there were substituted “which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act”, and
 - (b) at the end of paragraph (4)(b)(ii) there were inserted “; and
 - (iii) the purposes of complying with the requirements of Schedule 15A to that Act (control of loans etc to certain permitted participants); and
 - (iv) the purposes of complying with the requirements of paragraphs 39 and 40 of Schedule 1 and paragraphs 5 and 6 of Schedule 2 to the European Union Referendum Act 2015.”

Payments to counting officers and Regional Counting Officers

- 16 (1) Subject to sub-paragraphs (3) and (4), a counting officer or Regional Counting Officer is entitled to recover his or her charges in respect of services rendered, or expenses incurred, for or in connection with the referendum if—
- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the referendum, and
 - (b) the total of the officer’s charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, regulations made by the Minister, with the consent of the Treasury, for the purposes of this sub-paragraph.
- (2) Sub-paragraph (3) applies to a service rendered by—
- (a) the counting officer for a voting area in England, Wales or Scotland,
 - (b) the Clerk to the Gibraltar Parliament, as counting officer for the Gibraltar voting area, or
 - (c) a Regional Counting Officer,
- which in the opinion of the Electoral Commission was inadequately performed.
- (3) In respect of a service to which this sub-paragraph applies, the officer is entitled under sub-paragraph (1) to no more than the amount (which may be nil) that seems reasonable in all the circumstances—
- (a) to the Commission, or
 - (b) on a taxation under paragraph 17, to the county court, the Auditor of the Court of Session or the Gibraltar court (as the case may be).

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- (4) Regulations under sub-paragraph (1) may specify, or make provision for determining in accordance with the regulations, a maximum recoverable amount for services or expenses of a specified description—
- (a) for counting officers;
 - (b) for Regional Counting Officers.
- Subject to sub-paragraph (5), an officer may not recover more than the specified amount in respect of such services or expenses.
- (5) In a particular case the Electoral Commission may, with the consent of the Treasury, authorise the payment of—
- (a) more than the overall maximum recoverable amount, or
 - (b) more than the amount specified as the maximum recoverable amount for services or expenses of a specified description,
- if the Commission are satisfied that the conditions in sub-paragraph (6) are met.
- (6) The conditions are—
- (a) that it was reasonable for the officer concerned to render the services or incur the expenses, and
 - (b) that the charges in question are reasonable.
- (7) The Chief Counting Officer is entitled to recover expenses incurred by that officer for or in connection with the referendum if—
- (a) the expenses are of a kind that would otherwise have been incurred by counting officers or Regional Counting Officers, and
 - (b) the Chief Counting Officer considered that it would be more economical for the expenses to be incurred by that officer instead.
- (8) The Electoral Commission must pay the amount of any charges recoverable in accordance with this paragraph on an account being submitted to them.
- (9) At the request of a counting officer or Regional Counting Officer or the Chief Counting Officer, the Electoral Commission may make an advance on account of the officer's charges on such terms as they think fit.
- (10) The Electoral Commission may by regulations make provision as to the time when and the manner and form in which accounts are to be rendered to the Commission for the purposes of the payment of the charges of a counting officer or Regional Counting Officer or the Chief Counting Officer.
- (11) Regulations under this paragraph may make different provision for different cases or areas.
- (12) Any sums required by the Electoral Commission for making payments under this paragraph are to be charged on and paid out of the Consolidated Fund.

Taxation of counting officer's or Regional Counting Officer's account

- 17 (1) An application for the account of a counting officer or Regional Counting Officer to be taxed may be made—
- (a) except where any of paragraphs (b) to (d) applies, to the county court;

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- (b) in the case of the Chief Electoral Officer for Northern Ireland, to the county court that has jurisdiction at the place where the officer certified the number of ballot papers counted and votes cast;
 - (c) where the officer is one who was appointed for an area in Scotland, or for the region of Scotland, to the Auditor of the Court of Session;
 - (d) in the case of the Clerk to the Gibraltar Parliament, to the Gibraltar court.
- (2) On any such application the court has jurisdiction to tax the account in whatever manner and at whatever time and place the court thinks fit, and finally to determine the amount payable to the officer.
- (3) Where an application is made for the account of a counting officer or Regional Counting Officer to be taxed, the officer may apply to the court for it to examine any claim made by any person (“the claimant”) against the officer in respect of matters charged in the account.
- (4) On an application under sub-paragraph (3), after the claimant has been given notice and an opportunity to be heard and to tender any evidence, the court may allow, disallow or reduce the claim, with or without costs.
- (5) A reference in this paragraph to “the court” includes a reference to the Auditor of the Court of Session.
- (6) In this paragraph, “Gibraltar court” means the court determined by or under the law of Gibraltar to be the court for the purpose of this paragraph.

Electoral Commission accounts

- 18 (1) If directed to do so by the Treasury, the Electoral Commission must prepare accounts in respect of their expenditure in relation to the referendum.
- (2) Accounts under this paragraph must be prepared in accordance with directions given to the Commission by the Treasury.
- (3) Directions under sub-paragraph (2) may include, in particular, directions as to—
- (a) the information to be contained in the accounts and the manner in which it is to be presented,
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and
 - (c) the additional information (if any) that is to accompany the accounts.
- (4) Accounts under this paragraph must be submitted by the Commission to—
- (a) the Comptroller and Auditor General, and
 - (b) the Speaker’s Committee,
- as soon may be practicable after the giving of the direction under sub-paragraph (1).

Restriction on challenge to referendum result

- 19 (1) No court may entertain any proceedings for questioning the number of ballot papers counted or votes cast in the referendum as certified by the Chief Counting Officer or a Regional Counting Officer or counting officer unless—
- (a) the proceedings are brought by a claim for judicial review, and
 - (b) the claim form is filed before the end of the permitted period.

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- (2) In sub-paragraph (1) “the permitted period” means the period of 6 weeks beginning with—
- (a) the day on which the officer in question gives a certificate as to the number of ballot papers counted and votes cast in the referendum, or
 - (b) if the officer gives more than one such certificate, the day on which the last is given.
- (3) In the application of this paragraph to Scotland, sub-paragraph (1) has effect—
- (a) with the substitution in paragraph (a) of “a petition” for “a claim”;
 - (b) with the substitution in paragraph (b) of “the petition is lodged” for “the claim form is filed”.
- (4) In the application of this paragraph to Northern Ireland, sub-paragraph (1) has effect—
- (a) with the substitution in paragraph (a) of “an application” for “a claim”;
 - (b) with the substitution in paragraph (b) of “the application for leave to apply for judicial review is lodged” for “the claim form is filed”.
- (5) In the application of this paragraph to Gibraltar, sub-paragraph (1) has effect with the substitution in paragraph (a) of “an application” for “a claim”.