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**FIRST SCHEDULE**

Modification of European Parliamentary  
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**SECOND SCHEDULE**

European Parliamentary Elections Act 2004  
(as modified by the provisions in the First Schedule)

**2016-01**  
**Repealed**

## European Union (Referendum)

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AN ACT TO ENABLE THE FULL PARTICIPATION OF GIBRALTAR IN THE UNITED KINGDOM'S REFERENDUM ON WHETHER IT SHOULD REMAIN A MEMBER OF THE EUROPEAN UNION, AND TO PROVIDE FOR THE MAKING OF SUBSIDIARY LEGISLATION IN CONNECTION THEREWITH AND FOR MATTERS CONNECTED THERETO, INCLUDING AMENDING PRIMARY LEGISLATION BY SUBSIDIARY LEGISLATION AS THE CIRCUMSTANCES REQUIRE.

**Title.**

1. This Act may be cited as the European Union (Referendum) Act 2016.

**Commencement.**

2. This Act comes into operation on the day appointed by the Government by notice in the Gazette.

**Purpose.**

3.(1) Her Majesty's Government of Gibraltar, having agreed with Her Majesty's Government of the United Kingdom and Northern Ireland to the application to Gibraltar of the European Union Referendum Act 2015 passed by the Parliament at Westminster, is responsible for certain matters regarding the conduct of the referendum, on whether the United Kingdom should remain a member of the European Union, in Gibraltar.

(2) This Act makes provision for Gibraltar's full participation in the EU Referendum, including by modifying the application of the European Parliamentary Elections Act 2004 for the purposes of the EU Referendum and conferring powers to further modify existing enactments in addition to providing for the making of subsidiary legislation.

**Interpretation.**

- 4.(1) In this Act—

“EU Referendum” means the referendum on whether the United Kingdom should remain a member of the European Union to be held in the United Kingdom and Gibraltar pursuant to the European Union Referendum Act 2015 passed by the Parliament at Westminster and a reference to “the referendum” is a reference to the EU Referendum;

“legal incapacity” has the meaning given to it in the European Parliamentary Elections Act 2004;

“legal process” means a claim form, application notice, writ, summons or other process;

“qualifying address” has the meaning given to it in the European Parliamentary Elections Act 2004;

“UK European Union Referendum Act 2015” means the European Union Referendum Act 2015 passed by the Parliament at Westminster;

“UK European Union Referendum (Conduct) Regulations 2016” means the European Union Referendum (Conduct) Regulations 2016 made under section 4 of the UK European Union Referendum Act 2015;

“UK Representation of the People Act 1983” means the Representation of the People Act 1983 passed by the Parliament at Westminster.

(2) In sections 11 to 28, unless otherwise stated, “vote” as a verb means vote in the EU Referendum and includes (where the context allows)–

- (a) voting as proxy; and
- (b) voting by proxy,

but does not include voting in the United Kingdom; and “vote” as a noun and “voter” are to be construed accordingly.

(3) For the purposes of subsection (2) a person votes “in the United Kingdom” if–

- (a) that person votes (on his or her own behalf or as proxy) in person in the United Kingdom or by post under the law of the United Kingdom relating to postal voting; or
- (b) that person votes by proxy and the proxy votes in person in the United Kingdom or by post under the law of the United Kingdom relating to postal voting.

(4) In the Schedules, a reference to a section of the principal Act is a reference to a section of this Act.

(5) Any reference in this Act to a United Kingdom enactment which at the time of the coming into operation of this Act has been made but is not in operation or has not been made, shall be a reference to that enactment as it comes into operation or when it is made.

**Power to make subsidiary legislation.**

5.(1) The Government may, by such subsidiary legislation as it deems appropriate, provide for any matter which–

- (a) the Governments of the United Kingdom and Gibraltar have agreed is to be governed by Gibraltar legislation;
- (b) is necessary or may be reasonably be required for the conduct of the EU Referendum.

(2) Without prejudice to the generality of subsection (1) subsidiary legislation made under this section may, for the purposes of the EU Referendum, amend the application of any Act and any subsidiary legislation made thereunder.

(3) Section 23(b) of the Interpretation and General Clauses Act does not apply to subsidiary legislation made under this section.

## **Application of European Parliamentary Act 2004.**

6.(1) For the purposes of the EU Referendum the European Parliamentary Elections Act 2004 (including the Schedule thereto) has effect subject to the modifications to that Act set out in the First Schedule to this Act.

(2) The Second Schedule reproduces European Parliamentary Elections Act 2004 as modified by the First Schedule, for information purposes.

(3) The Chief Minister may by regulations amend the First and Second Schedules.

7. *Omitted.*

## **Offences: contravention of European Parliamentary Elections Act 2004, as amended.**

8.(1) Where an offence has been committed in contravention of a provision of the European Parliamentary Elections Act 2004 (including any contravention of any matter provided for in the Schedule), as modified by the First Schedule, proceedings for that offence shall be proceeded with as if the contravention were an offence under this Act.

(2) The mode of trial and the penalty for such offence shall be that which is set out in the European Parliamentary Elections Act 2004, as amended by the First Schedule.

## **Offences and penalties for contravention of United Kingdom enactments.**

9. Proceedings may be instituted in Gibraltar for the contravention of an enactment made by the Parliament in Westminster if-

- (a) the enactment in question was made for or has, as a matter of United Kingdom law, applied for the purposes of the EU Referendum; and
- (b) the application of that enactment has been expressly extended to Gibraltar.

**Offences under Gibraltar and United Kingdom laws.**

10. If an act or omission constitutes an offence both under this Act and under an Act made by the Parliament at Westminster or any subsidiary legislation made under it, the application of which has been extended to Gibraltar, section 3 of the Criminal Procedure and Evidence Act 2011 applies as though a reference to 2 or more Acts or both an Act and any other enactment includes a reference to an Act made by the Parliament at Westminster or subsidiary legislation made under it.

*Further offences etc.*

**Personation.**

11.(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation in the referendum if he—

- (a) votes in person or by post as some other person, whether or not as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

**Other voting offences.**

12.(1) A person shall be guilty of an offence if—

- (a) he votes in person or by post, whether on his own behalf or as proxy, or applies to vote by proxy or by post on his own behalf, knowing that he is subject to a legal incapacity to vote; or
- (b) he applies for the appointment of a proxy to vote for him knowing that he is or the person to be appointed is subject to a legal incapacity to vote; or
- (c) he votes, whether in person or by post, as proxy for some other person knowing that that person is subject to a legal incapacity to vote.

For the purposes of this subsection references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day, include his being below voting age if he will be of voting age on that day.

(2) A person shall be guilty of an offence if—

- (a) he votes on his own behalf otherwise than by proxy more than once; or
- (b) he votes on his own behalf in person when he is entitled to vote by post; or
- (c) he votes on his own behalf in person knowing that a person appointed to vote as his proxy either has already voted in person or is entitled to vote by post; or
- (d) he applies under Part 2 of the European Union Referendum (Conduct) Rules 2016 for a person to be appointed as his proxy to vote for him without applying for the cancellation of a previous appointment of a third person then in force under that Part or without withdrawing a pending application for such an appointment.

(3) A person shall be guilty of an offence if—

- (a) he votes as proxy for the same person more than once; or
- (b) he votes in person as proxy for another person and he is entitled to vote by post as proxy for that person; or
- (c) he votes in person as proxy for another person and he knows that other person has already voted in person.

(4) A person shall also be guilty of an offence if he votes as proxy for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(5) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing subsections of this section.

(6) For the purposes of this section a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under subsection (4) above, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

(7) A person is not guilty of an offence under subsection (2)(b) or (3)(b) only by reason of his having marked a tendered ballot paper in accordance with rule 33(4) to (7) of the European Union Referendum (Conduct) Rules 2016.

(8) An offence under this section shall be an illegal practice.

(9) In subsections (2)(a) and (3)(a) "vote" means vote in the EU Referendum (and does not exclude voting in the United Kingdom).

(10) In subsections (2)(c) and (3)(c)–

- (a) references to voting in person are to voting in the EU Referendum in person either in Gibraltar or the United Kingdom; and
- (b) references to voting by post are to voting in the EU Referendum by post, either under the law of Gibraltar relating to postal voting or under the law of the United Kingdom relating to postal voting.

(11) But–

- (a) a person does not commit an offence under subsection (2)(a) or (3)(a) unless at least one of the votes mentioned in subsection (2)(a) or (3)(a) (as the case may be) is a vote in Gibraltar;
- (b) a person does not commit an offence under subsection (2)(c) unless either or both of the following apply–
  - (i) the person's vote on his own behalf is a vote in person in Gibraltar;

- (ii) the proxy's vote (or entitlement to a postal vote) is a vote in (or an entitlement to a postal vote in) Gibraltar;
- (c) a person does not commit an offence under subsection (3)(c) unless at least one of the votes mentioned in subsection (3)(c) is a vote in person in Gibraltar.

(12) In subsection (9) the reference to voting "in the United Kingdom" is to voting—

- (a) in person in the United Kingdom; or
- (b) by post under the law of the United Kingdom relating to postal voting,

and in subsection (11) references to a vote "in Gibraltar" are to be read accordingly.

## **Offences relating to applications for postal and proxy votes.**

13.(1) A person commits an offence if he—

- (a) engages in an act specified in subsection (2); and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.

(2) These are the acts—

- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
- (c) inducing the registration officer or counting officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.

(3) In subsection (1)(b), property includes any description of property.

(4) In subsection (2) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).

(5) A person who commits an offence under subsection (1) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.

**Tampering with ballot papers etc.**

14.(1) A person shall be guilty of an offence, if, at the referendum, he—

- (a) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any postal voting statement or declaration of identity or official envelope used in connection with voting by post; or
- (b) without due authority supplies any ballot paper to any person; or
- (c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (d) fraudulently takes out of the polling station any ballot paper; or
- (e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the referendum; or
- (f) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(3) If the Chief Counting Officer, a Regional counting officer, a counting officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers is guilty of an offence under this section, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

(4) If any other person is guilty of an offence under this section, he shall be liable on summary conviction to a fine not exceeding level 5 on the

standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

**Requirement of secrecy.**

15.(1) The following persons—

- (a) the Chief Counting Officer and any Regional Counting Officer;
- (b) every counting officer, attending at a polling station;
- (c) every deputy of such an officer so attending;
- (d) every presiding officer and clerk so attending;
- (e) every referendum agent, polling agent and counting agent so attending; and
- (f) every person so attending by virtue of any of sections 6A to 6D of the United Kingdom's Political Parties, Elections and Referendums Act 2000,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any person who has or has not applied for a ballot paper or voted at a polling station,
- (ii) the number on the register of any person who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station, or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the referendum answer for which any vote is given on any particular ballot paper.

(3) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the referendum answer for which a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the referendum answer for which a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the referendum answer for which he has or has not voted.

(4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not-

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of the ballot paper sent to any person; or
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the referendum answer for which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(5) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the referendum answer for which that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given for the use of that voter.

(6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

(7) The references in subsections (1) and (4) to the closure of the poll are to be read, in relation to the referendum, as references to the closure of the poll in Gibraltar or the United Kingdom, whichever is the later.

(8) In this section “voter with disabilities” has the meaning given by rule 32(10) of the European Union Referendum (Conduct) Rules 2016.

## **Prohibition on publication of exit polls.**

16.(1) No person shall publish before the poll is closed—

- (a) any statement relating to the way in which voters have voted at the referendum where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or
- (b) any forecast as to the result of the referendum which is (or might reasonably be taken to be) based on information so given.

(2) If a person acts in contravention of subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

(3) In this section—

“closure of the poll” is to be read as a reference to the closure of the poll in Gibraltar or the United Kingdom, whichever is the later;

“forecast” includes estimate, and the reference to a forecast as to the result of the referendum includes a forecast as to the number or proportion of votes expected to be cast for each answer to the referendum question in any region, voting area or other area;

“publish” means make available to the public in Gibraltar, or any section of the public, in whatever form and by whatever means,

and the reference to a forecast as to the result of the referendum includes a forecast as to the number or proportion of votes expected to be cast for each answer to the referendum question in any region, voting area or other area.

(4) The references in subsection (1)(a) to “voters” include any voters in the referendum, whether voting in Gibraltar or the United Kingdom, and

“vote” is to be construed accordingly, and, accordingly, section 4(2) (meaning of “vote”) does not apply to this section.

**Failure to comply with conditions relating to supply etc of certain documents.**

17.(1) A person is guilty of an offence—

- (a) if he fails to comply with any conditions imposed in pursuance of rule 50(4)(a) of the European Union Referendum (Conduct) Rules 2016; or
- (b) if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.

(2) P is not guilty of an offence under subsection (1) if—

- (a) he has an appropriate supervisor, and
- (b) he has complied with all the requirements imposed on him by his appropriate supervisor.

(3) A person who is not P or an appropriate supervisor is not guilty of an offence under subsection (1) if he takes all reasonable steps to ensure that he complies with the conditions.

(4) In subsections (1)(b) and (2)—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.

(5) A person guilty of an offence as mentioned in subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Imitation poll cards.**

18.(1) No person shall for the purpose of promoting or procuring a particular result in the referendum issue any poll card or document so closely resembling an official poll card as to be calculated to deceive.

(2) An offence under this section shall be an illegal practice.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves-

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(4) In subsection (1) a reference to poll cards does not include a reference to poll cards for the purposes of the referendum so far as held in the United Kingdom.

## **Disturbances at referendum meetings.**

19.(1) A person who at a lawful public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This section applies to a meeting in connection with the referendum which-

- (a) is held by a permitted participant during the referendum period (within the meaning given by paragraph 1 of Schedule 1 to the UK European Union Referendum Act 2015), and
- (b) is held in Gibraltar.

(3) If a constable reasonably suspects any person of committing an offence under subsection (1) above, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## **Officials not to act for permitted participants.**

20.(1) If-

- (a) the Chief Counting Officer;
- (b) any Regional Counting Officer;
- (c) a counting officer;
- (b) any officer, deputy or clerk appointed by a person mentioned in paragraph (a), (b) or (c); or
- (c) any officer whose services have been placed at the disposal of a counting officer or Regional Counting Officer under paragraph 6(3) of Schedule 3 to the UK European Union Referendum Act 2015,

acts as a referendum agent for a permitted participant, he shall be guilty of an offence.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Illegal canvassing by police officers.**

21.(1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether on that person's own behalf or as proxy.

(2) A person acting in contravention of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, but nothing in that subsection shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

**Payments for exhibition of EU Referendum notices.**

22.(1) No payment or contract for payment shall for the purpose of promoting or procuring a particular result in the referendum be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this section either before, during or after the referendum—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

(3) In this section “elector” means a person entitled to vote on his own behalf.

### **Prohibition of paid canvassers.**

23.(1) If a person is, either before, during or after the referendum, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a particular result in the referendum—

- (a) the person so engaging or employing him; and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

(2) Nothing in this section applies in relation to canvassing in the United Kingdom in connection with the referendum.

### **Providing money for illegal purposes.**

24. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Act, or
- (b) for replacing any money expended in any such payment,

except where the payment may have been previously allowed in pursuance of section 28 below to be an exception, that person shall be guilty of an illegal payment.

### **Bribery.**

25.(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

- (a) gives any money or procures any officer to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting;
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting; or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, a particular result in the referendum or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure a particular result in the referendum or the vote of any voter.

(3) For the purposes of subsection (2)–

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(4) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery in the referendum or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery in the referendum.

(5) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning the referendum.

(6) A voter shall be guilty of bribery if before or during the referendum he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person shall be guilty of bribery if after the referendum he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this section the expression “voter” includes any person who has or claims to have a right to vote.

## **Treating.**

26.(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a the referendum, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every person entitled to vote on his own behalf, and every proxy of such a person, who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

## **Undue influence.**

27.(1) person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents, or intends to impede or prevent, the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon, or intends so to compel, induce or prevail upon, an elector or proxy for an elector either to vote or to refrain from voting.

(3) In this section “elector” means a person entitled to vote on his own behalf.

**Broadcasting from outside Gibraltar.**

27A.(1) No person shall, with intent to influence persons to give or refrain from giving their votes in the referendum, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the referendum in any programme service (as defined in section 2(1) of the Communications Act 2006) provided from a place outside Gibraltar otherwise than in pursuance of arrangements made with the Gibraltar Broadcasting Corporation, for the reception and re-transmission of that matter by that body.

(2) An offence under this section shall be an illegal practice.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves-

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

**Saving for employees to be absent for voting.**

28.(1) Nothing in this Act makes it illegal for an employer to permit persons entitled to vote (on their own behalf or as proxies) to absent themselves from his employment for a reasonable time for the purpose of voting at the poll without having any deduction from their salaries or wages on account of their absence, if the permission-

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment;

- (b) is not given with a view to inducing any person to record his vote for a particular answer in the referendum; and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for a particular answer in the referendum,

but this subsection shall not be construed as making illegal any act which would not be illegal apart from this subsection.

*Power to except innocent act from being illegal practice,  
payment, employment or hiring*

### **Application for relief.**

29.(1) Where a person makes an application under this section he shall notify the Attorney-General, who may attend the hearing of the application and make representations at the hearing in respect of it.

(2) An application for relief under this section may be made to the Supreme Court.

(3) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring;
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c) that such notice of the application has been given, as to the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under this Act of that act or omission.

*Prosecutions for corrupt or illegal practices*

**Prosecutions for corrupt practices.**

30. A person who is guilty of a corrupt practice shall be liable—

- (a) on conviction on indictment—
  - (i) in the case of a corrupt practice under section 11 or 13, to imprisonment for a term not exceeding two years, or to a fine, or to both,
  - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.

**Prosecutions for illegal practices.**

31. A person guilty of an illegal practice shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

**Conviction of illegal practice on charge of corrupt practice etc.**

32. A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

**Illegal payments etc.**

33.(1) A person guilty of an offence of illegal payment or employment shall, on summary conviction, be liable to a fine not exceeding level 5 on the standard scale, and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment or employment as the case may be.

(2) Any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

*General provisions as to prosecutions*

**Time limit for prosecutions.**

34.(1) A proceeding against a person in respect of any offence under any provision contained in or made under this Act shall be commenced within one year after the offence was committed, and the time so limited by this section shall, in the case of any proceedings under the Magistrates' Courts Act for any such offence be substituted for any limitation of time contained in that Act.

(2) For the purposes of this section the laying of an information shall be deemed to be the commencement of a proceeding.

(3) The magistrates' court may act under subsection (4) if it is satisfied on an application by a prosecutor-

- (a) that there are exceptional circumstances which justify the granting of the application; and
- (b) that there has been no undue delay in the investigation of the offence to which the application relates.

(4) The magistrates' court may extend the time within which proceedings must be commenced in pursuance of subsection (1) above to not more than 24 months after the offence was committed.

(5) If the magistrates' court acts under subsection (4), it may also make an order under subsection (6) if it is satisfied, on an application by a prosecutor, that documents retained by the relevant registration officer in pursuance of rule 50 of the European Union Referendum (Conduct) Rules 2016 may provide evidence relating to the offence.

(6) An order under this subsection is an order-

- (a) directing the registration officer not to cause the documents to be destroyed at the expiry of the period of one year mentioned in rule 50 of the European Union Referendum (Conduct) Rules 2016;
- (b) extending the period for which he is required to retain them under that rule by such further period not exceeding 12 months as is specified in the order.

(7) The making of an order under subsection (6) does not affect any other power to require the retention of the documents.

(8) An application under this section must be made not more than one year after the offence was committed.

(9) Any party to-

- (a) an application under subsection (3); or
- (b) an application under subsection (5),

who is aggrieved by the refusal of the magistrates' court to act under subsection (4) or to make an order under subsection (6) (as the case may be) may appeal to the Supreme Court.

**Offences by associations.**

35. Where any corrupt or illegal practice or any illegal payment, employment or hiring is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Act.

**Service of notices.**

36.(1) Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting the referendum for the purpose of causing him to appear before the Supreme Court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of this Act may be served-

- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode; or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this section it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered.

**Translations etc of certain documents.**

37.(1) Subsections (2) and (3) below apply to any document which under or by virtue of this Act or any subsidiary legislation made hereunder, the UK European Union Referendum Act 2015 or the UK European Union Referendum (Conduct) Regulations 2016 is required or authorised-

- (a) to be given to voters; or
- (b) to be displayed in any place in Gibraltar,

for the purposes of the referendum.

(2) The person who is required or authorised to give or display the document must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate-

- (a) the document in Braille;
- (b) the document in languages other than English;
- (c) graphical representations of the information contained in the document;
- (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.

(3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.

(4) Subsections (2) and (3) above do not apply to the ballot paper.

(5) The counting officer may cause to be displayed at every polling station an enlarged sample copy of the ballot paper.

(6) The sample copy mentioned in subsection (5) above-

- (a) must have printed on it the words "Vote (X) in one box only" both at the top and immediately below the referendum question, and
- (b) below the second occurrence of those words, may include a translation of those words into such other languages as the counting officer thinks appropriate.

(7) The counting officer must provide at every polling station an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted.

(8) The sample copy mentioned in subsection (7) above must be clearly marked as a specimen provided only for the guidance of voters.

## **Repeal of Act and savings.**

38.(1) Subject to subsection (2) this Act is repealed on the day 12 months after the day on which the EU referendum is held.

(2) Notwithstanding the repeal of this Act by subsection (1)-

**2016-01**  
**Repealed**

## European Union (Referendum)

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- (a) any right which may have been enforced prior to the repeal of this Act shall continue to be enforceable; and
- (b) any offence which may be prosecuted prior to the repeal of this Act or is being prosecuted at the time of the repeal of this Act, may be so prosecuted.

FIRST SCHEDULE

Section 6(1)

**MODIFICATION OF EUROPEAN PARLIAMENTARY  
ELECTIONS ACT 2004**

1. The application of the European Parliamentary Elections Act 2004 is modified in accordance with this Schedule.

2. In section 2 (*Interpretation*)—

(a) for the definition “combined region” substitute—

““combined region” means the region referred to in section 4(1) of the UK European Union Referendum Act 2015 as the South West and Gibraltar, and which includes Gibraltar as a voting area pursuant to section 8(1) and (2) of that Act;”;

(b) after the definition “combined region” insert—

““designated organisation” means a person or body designated by the Electoral Commission under section 108 of the 2000 Act;”.

3. For section 3 (*Schedule 1*) substitute—

**“Schedule 1.**

3. Schedule 1 shall have effect subject to the following enactments of the Parliament at Westminster—

(i) the European Union Referendum Act 2015,

(ii) the Political Parties, Elections and Referendums Act 2000,

(iii) the European Parliamentary Elections Act 2002,

(iv) the European Parliament (Representation) Act 2003,

and any subordinate legislation made under those enactments (whenever made).”.

4. In section 6 (*Breach of official duty*) for subsection (3) substitute the following subsections—

“(3) The persons to whom this section applies are–

- (a) the registration officer;
- (aa) the presiding officer, or any equivalent officer in Gibraltar,
- (ab) the counting officer;
- (ac) any official designated by a universal service provider of postal services (within the meaning given by section 2 of the Post Office Act); and
- (b) any deputy of a person mentioned in paragraphs (a) to (ac) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by this Act, the European Union (Referendum) Act 2016, the European Union Referendum (Conduct) Rules 2016, the UK European Union Referendum Act 2015, the UK European Union Referendum (Conduct) Regulations 2016 or the law of the United Kingdom relating to referendums.

(4) Where–

- (a) a counting officer is guilty of an act or omission in breach of his official duty, but
- (b) he remedies that act or omission in full by taking steps under paragraph 8 of Schedule 3 to the UK European Union Referendum Act 2015,

he shall not be guilty of an offence under subsection (1).

(5) Subsection (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.”.

5. In section 7 (*Regulation of political broadcasts: code of standards*), in subsection (1) for “European Parliamentary elections” substitute “the EU Referendum.”.

6. In section 9 (*Objects of a political nature and political ends*), in subsection (1)(a) for “a European Parliamentary election” substitute “the EU Referendum”.

7. In section 10 (*Political broadcasts*)—
- (a) for subsection (1) substitute—
    - “(1) Any broadcaster in Gibraltar shall include in its radio and television services political broadcasts made on behalf of designated organisations.”;
  - (b) in subsection (3) for “each political party and individual independent candidate” substitute “designated organisations”.
8. In section 12 (*Rights of audience and right to conduct litigation in proceedings connected with European Parliamentary elections in the combined region*), in the section heading and in subsections (1) and (2) for “European Parliamentary elections in the combined region” substitute “the EU Referendum” on each occasion those words appear.
9. In section 13 (*Designation of the Gibraltar Court*) for “European Parliamentary Elections Regulations 2004 or in the European Parliamentary Elections (Combined Region and Campaign Expenditure) (United Kingdom and Gibraltar) Order 2004” substitute “UK European Union Referendum Act 2015, the UK Political Parties, Elections and Referendums Act 2000, UK European Parliamentary Elections Regulations 2004 and in any other enactment made in the United Kingdom which applies to Gibraltar for the purposes of the EU Referendum,”.
10. Section 14 (*Power to make regulations*) is omitted.
11. In paragraph 1 (*Interpretation*) of Schedule 1—
- (a) the definition “candidate” is omitted;
  - (b) after the definition “enactment” insert—
    - ““EU Referendum” means the referendum on whether the United Kingdom should remain a member of the European Union to be held in the United Kingdom and Gibraltar pursuant to the European Union Referendum Act 2015 passed by the Parliament in Westminster, and a reference to “the referendum” is a reference to the EU Referendum;”;
  - (c) in the definition of “full register” for “11(1) and 11(3)” substitute “11(1), 11(1A) and 11(3)”.
12. In paragraph 2 (*Forms*) of Schedule 1 in subparagraph (1) for “an election” substitute “the EU referendum”.

13. In paragraph 10 (*Maintenance of Gibraltar register: registration of electors*) of Schedule 1 after subparagraph (4A) insert–

“(4B) The registration officer may, for the purposes of this paragraph, rely on any information which he has available to him following the canvass for the General Election held on 26 November 2015.”.

14. In paragraph 11 (*Publication of Gibraltar register*) of Schedule 1–

(a) after subparagraph (1) insert–

“(1A) In addition to the obligations under subparagraph (1), the registration officer must publish a revised version of the Gibraltar register, as soon as is reasonably practicable, and no later than 2 weeks after the date of the commencement of the European Union (Referendum) Act 2016, and any requirement that the registration officer must publish a notice in advance of publication of a revised version of the Gibraltar register does not apply to the publication of the revised register published under this subparagraph.”;

(b) in subparagraph (2)(b) for “.” substitute “; and”; and

(c) after subparagraph (2)(b) insert the following subparagraph–

“(c) any alterations which are required to be made in respect of applications which are treated as made to him by virtue of paragraph 6(2) of Schedule 4 to the 2004 Regulations.”;

(d) in subparagraph (3)(a) for “sub-paragraph (1)” substitute “subparagraph (1) or (1A)”.

15. For paragraph 13 (*Alteration of Gibraltar register: pending elections*) of Schedule 1 substitute–

**“Alteration of Gibraltar register: pending the EU Referendum.**

13.(1) If, by virtue of paragraph 12(2) above, an alteration in a published version of a register is to take effect after 20 June 2016, the alteration does not have effect for the purposes of the EU referendum.

(2) Sub-paragraph (2A) below applies where–

- (a) at any time before 20 June 2016 paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination, requirement or decision falling within any of indents (a) to (d) of that sub-paragraph;
- b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address; and
- (c) no alteration made in consequence of the determination, requirement or decision—
  - (i) has already taken effect; or
  - (ii) is due to take effect,

under sub-paragraph (2) of that paragraph on or before 20 June 2016.

(2A) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him on 20 June 2016; and
- (b) the alteration shall take effect as from the beginning of that day.
- (3) Deleted.

(3A) Sub-paragraph (3B) below applies where—

- (a) at any time on or after 20 June 2016 but before 9 pm on the day of the poll, paragraph 12 above applies to a registration officer, by virtue of sub-paragraph (1) of that paragraph, in connection with a notification mentioned in paragraph (c) of that sub-paragraph; and
- (b) in consequence of the notification—
  - (i) an entry relating to that person falls to be made in the register in respect of an address; or
  - (ii) his entry in the register requires to be altered.

- (3B) In such a case the registration officer shall issue, in accordance with this Schedule, notice specifying the appropriate alteration in the register; and—
- (a) the notice shall be so issued by him when he receives the notification; and
  - (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.
- (3C) Sub-paragraph (3D) below applies where—
- (a) at any time on or after 20 June 2016 but before 9 pm on the day of the poll, paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination falling within paragraph (d) of that subparagraph;
  - (b) the determination was made following a representation made by or on behalf of a person to the registration officer; and
  - (c) in consequence of the determination—
    - (i) an entry relating to that person falls to be made in the register in respect of an address; or
    - (ii) his entry in the register requires to be altered.
- (3D) In such a case the registration officer shall issue, in accordance with this Schedule, a notice specifying the appropriate alteration in the register; and—
- (a) the notice shall be so issued by him when he makes the determination; and
  - (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.
- (3E) In sub-paragraph (3C)(b) above, “representation” means a representation made to the effect that the register contains a clerical error.

- (3F)(a) Notwithstanding anything to the contrary in this Act, subparagraphs (b) and (c) below shall apply in relation to an interim publication date where at any time before that interim publication date paragraph 12(1) applies;
- (b) on the interim publication date the registration officer shall issue, in accordance with this Schedule 1, a notice specifying the appropriate alteration in the register and the alteration shall take effect from the beginning of the interim publication date;
- (c) there shall be two interim publication dates, as follows—
- (i) the first interim publication date shall be the nineteenth working day before the date of the poll for the referendum; and
  - (ii) the second interim publication date shall be determined by the registration officer but shall be a day after the first interim publication date and before 20 June 2016.
- (4) Paragraph 6 above shall apply for the purposes of this paragraph as if “bank holiday” included a day of public thanksgiving or mourning.
- (5) For the purposes of subparagraph (3F)(c)(i) “working day” means a day other than—
- (a) Saturdays and Sundays;
  - (b) Christmas Eve, Christmas Day, Good Friday and any day that is a bank holiday or public holiday in Gibraltar under the Banking and Financial Dealings Act and the Interpretation and General Clauses Act;
  - (c) any day appointed in Gibraltar as a day of public thanksgiving or mourning.

16. After paragraph 23 of Schedule 1 insert—

**“Effect of register.**

23A.(1) Any entry in the register, if it gives a date as that on which the person named will attain voting age, shall be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as a person entitled to vote by virtue of

that entry unless the day fixed for the poll for the referendum is that or a later date.

- (2) Subparagraph (1) applies to an entry in the record of anonymous entries.
- (3) A person registered as voter or entered in the list of proxies, shall not be excluded from voting on any of the grounds set out in subparagraph (4), but this shall not affect his liability to any penalty for voting.
- (4) The grounds are-
  - (a) that he is not of voting age;
  - (b) that he is not or was not at any particular time-
    - (i) a Commonwealth citizen;
    - (ii) a citizen of the Republic of Ireland;
  - (c) that he is or was at any particular time otherwise subject to any other legal incapacity to vote.

**Effect of misdescription.**

23B. No misnomer or inaccurate description of any person or place named—

- (a) in the register, or
- (b) in any list, record, proxy paper, ballot paper, notice or other document required for the purposes of this **this** Act,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.”.

17. In paragraph 31 (*Registration appeals*) of Schedule 1—

- (a) in subparagraph (6) for “when notice of an election is given” substitute “on the day on which the notice of referendum is issued”;
- (b) for subparagraph (8) substitute—

“(8) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of subparagraph (7) takes effect under paragraph 11(5), 12(2) or 13(2) on or before the date of the poll for the referendum, subparagraph (6) does not apply to that appeal as respects the referendum.”.

17A. In paragraph 41 (*Publication of register*) of Schedule 1, in subparagraph (1) for “11(1) and (3)” substitute “11(1), (1A) and (3)”.

17B. In paragraph 42 (*Information about register*) of Schedule 1 in subparagraph (1) for “11(1)” substitute “11(1) or (1A)”.

17C. In paragraph 43 (*Preparation and publication of list of overseas electors*) of Schedule 1 in subparagraph (3) for “11(1)” substitute “11(1) or (1A)”.

18. *Deleted.*

19. *Deleted.*

20. In paragraph 44 (*Interpretation and application of Part 3 etc.*) of Schedule 1–

- (a) in subparagraph (4) for “or the Representation of the People (Northern Ireland) Regulations 2001” substitute “or the Representation of the People (Northern Ireland) Regulations 2008 as modified by the UK European Union Referendum Act 2015 or the UK European Union Referendum (Conduct) Regulations 2016,”; and
- (b) in subparagraph (5) for “Secretary of State under paragraph 21 of Schedule 4 to the European Parliamentary Elections Regulations 2004” substitute “Secretary of State or the Chancellor of the Duchy of Lancaster under paragraph 21 of the Schedule 4 to the 2004 Regulations or under section 52 of the United Kingdom’s Representation of the People Act 1983, as modified by the UK European Union Referendum Act 2015 or the UK European Union Referendum (Conduct) Regulations 2016”.

21. In paragraph 45 (*Edited version of register*) of Schedule 1–

- (a) in subparagraph (1) for “or 3” substitute “, (1A) or (3)”;
- (b) after subparagraph (2) insert–

“(2ZA) A person registered pursuant to paragraph 6(2) of Schedule 4 to the 2004 Regulations (*Deemed registrants*) shall be deemed to have elected for his name and address to be excluded from the edited register.

(2ZB) A person to whom subparagraph (2ZA) applies may apply to the registration officer for inclusion in the full register and upon receipt of such an application he shall be so included.”.

22. In paragraph 46 (*Restrictions on supply of full register and disclosure of information from it by the registration officer and his staff*) of Schedule 1-

(a) for subparagraphs (1) and (2) substitute—

“46.(1) This paragraph applies to—

- (a) the registration officer;
- (b) any deputy registration officer; and
- (ba) the Chief Counting Officer and any Regional Counting Officer; and
- (bb) any deputy of the Chief Counting Officer or of any Regional Counting Officer; and
- (c) any person appointed to assist any such officer or who in the course of his employment is assigned to assist any such officer in his registration duties.

(2) This paragraph also applies to—

- (a) the registration officer acting in his capacity as returning officer or the counting officer at the EU Referendum;
- (b) any deputy returning officer or deputy acting returning officer or counting officer; and
- (c) any person appointed to assist any person mentioned in paragraph (a) or (b) or who in the course of his employment is assigned to assist any such officer in his duties in respect of the EU Referendum.”; and

- (b) in subparagraph (4) for “an election” substitute “the EU Referendum”.

22A. In paragraph 48 (Supply of free copy of full register to the British Library and to the John Mackintosh Hall Library and restrictions on use) of Schedule 1, in subparagraphs (1)(a) and (2)(b) for “11(1) or (3)” substitute “11(1), (1A) or (3)”.

22B. In paragraph 49 (Supply of free copy of full register etc to Office for National Statistics and Gibraltar Statistics Office and restrictions on use) in subparagraph (1)(a) for “11(1) or (3)” substitute “11(1), (1A) or (3)”.

22C. In paragraph 50 (Supply of free copy of full register etc to Electoral Commission and restrictions on use) in subparagraph (1)(a) for “11(1) or (3)” substitute “11(1), (1A) or (3)”.

22D. In paragraph 51 (*Supply of full register etc under paragraphs 52 to 57: general provisions*) of Schedule 1, in subparagraph (1) for “11(1) or (3)” substitute “11(1), (1A) or (3)”.

23. Omit paragraph 52.

24. In paragraph 54 (*Supply of full register etc to registered political parties etc and restrictions on use*) of Schedule 1-

- (a) after subparagraph (1)(b) insert-

“(c) a permitted participant within the meaning of section 105(1) of the 2000 Act, which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act.”;

- (b) in subparagraph (2) after the words “(whether or not for reward) a party” insert “or participant”; and

- (c) for subparagraph (3) substitute-

“(3) Those purposes are-

- (a) in the case of a party falling within paragraph (1)(a) or (b)-

(i) electoral purposes, and

(ii) the purpose of complying with the controls on donations under Part IV of or, as

the case may be, Schedule 11 to the 2000 Act;  
and

(b) in the case of a permitted participant within  
the meaning of section 105(1) of that Act-

(i) purposes in connection with the  
campaign in respect of the referendum  
identified in the declaration made by the  
participant under section 106 of that Act, and

(ii) the purposes of complying with the  
controls on donations in Schedule 15 to that  
Act,

(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 UK European Union  
Referendum Act 2015.”.

25. Paragraph 56 (*Supply of full register etc to candidates and restrictions on use*) of Schedule 1 is omitted.

26. In paragraph 58 (*Offences*) of Schedule 1 in subparagraph (2) omit “52(2),” and “, 56(4)”.

27. In paragraph 59 (*Offences as to declarations*) of Schedule 1 in subparagraph (a)(i) for “16” substitute “17”.

28. In paragraph 61 (*Anonymous registration*) of Schedule 1, in subparagraph (8) omit “for any election”.

29. In paragraph 70 (*Duties of registration officer and his staff in relation to record of anonymous entries*) of Schedule 1-

(a) after subparagraph (1) insert-

“(1A) Where the registration officer is also the counting officer at the EU Referendum (and in consequence has access to the record of anonymous entries without being supplied with a copy of it), this paragraph applies to-

- (a) the registration officer acting in that other capacity;
- (b) any deputy returning officer, deputy acting returning officer or deputy counting officer; and
- (c) any person appointed to assist any person mentioned in (a) or (b) or who in the course of his employment is assigned to assist any such officer in his duties in respect of the EU Referendum.”; and

- (b) in subparagraph (3) for “an election” substitute “the EU Referendum”.

30. In paragraph 71 (*Supply of record of anonymous entries to returning and counting officers*) of Schedule 1, in subparagraph (4) for “an election” substitute “the EU Referendum”.

## SECOND SCHEDULE

Section 6(2)

*This Schedule reproduces the European Parliamentary Elections Act 2004 as amended by the provisions in the First Schedule*

## EUROPEAN PARLIAMENTARY ELECTIONS ACT 2004.

### ARRANGEMENT OF SECTIONS

#### Section

1. Title and commencement.
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SCHEDULE 2

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AN ACT TO MAKE PROVISION FOR GIBRALTAR'S PARTICIPATION IN EUROPEAN PARLIAMENTARY ELECTIONS AND FOR THE REGULATION OF PROGRAMMES INCLUDED IN TELEVISION AND RADIO SERVICES IN GIBRALTAR IN RELATION TO EUROPEAN PARLIAMENTARY ELECTIONS, AND FOR CONNECTED PURPOSES.

**Title and commencement.**

1.(1) This Act may be cited as the European Parliamentary Elections Act 2004.

(2) This Act comes into operation on the day appointed by the Government by notice in the Gazette and different days may be appointed for different purposes.

**Interpretation.**

2. For the purposes of this Act, unless the context otherwise requires—

“citizen of the Union” shall be construed in accordance with Article 20.1 of the Treaty on the Functioning of the European Union, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“combined region” means the region referred to in section 4(1) of UK European Union Referendum Act 2015 as the South West and Gibraltar, and which includes Gibraltar as a voting area pursuant to section 8(1) and (2) of that Act;

“designated organisation” means a person or body designated by the Electoral Commission under section 108 of the 2000 Act;

“Gibraltar register” has the meaning given in section 14(1) of the European Parliament (Representation) Act 2003\*;

“Gibraltar Regulatory Authority” means the Gibraltar Regulatory Authority established under section 3 of the Gibraltar Regulatory Authority Act 2000;

“registration officer” means the European electoral registration officer for Gibraltar (within the meaning of section 14 of the European Parliament (Representation) Act 2003).

## **Schedule 1.**

3. Schedule 1 shall have effect subject to the following enactments of the Parliament at Westminster-

- (i) European Union Referendum Act 2015,
- (ii) the Political Parties, Elections and Referendums Act 2000,
- (iii) European Parliamentary Elections Act 2002,
- (iv) the European Parliament (Representation) Act 2003,

and any subordinate legislation made under those enactments (whenever made).

4. *Omitted.*

## **Discharge of registration duties.**

5.(1) Any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being appointed by the registration officer, and the provisions of this Act apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(2) Any acts authorised or required to be done by or with respect to the registration officer may, in the event of his incapacity to act or of a vacancy, be done by or with respect to any deputy appointed under subsection (1).

(3) It shall be the duty of the Government to assign such officers to assist the registration officer as may be required for carrying out his functions under this Act.

## **Breach of official duty.**

6.(1) If a person to whom this section applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this section applies are—

- (a) the registration officer;

- (aa) the presiding officer, or any equivalent officer in Gibraltar,
- (ab) the counting officer;
- (ac) any official designated by a universal service provider of postal services (within the meaning given by section 2 of the Post Office Act); and
- (b) any deputy of a person mentioned in paragraphs (a) to (ac) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by this Act, the European Union (Referendum) Act 2016, the European Union Referendum (Conduct) Rules 2016, the UK European Union Referendum Act 2015, the UK European Union Referendum (Conduct) Regulations 2016 or the law of the United Kingdom relating to referendums.

- (4) Where—
  - (a) a counting officer is guilty of an act or omission in breach of his official duty; but
  - (b) he remedies that act or omission in full by taking steps under paragraph 8 of Schedule 3 to the UK European Union Referendum Act 2015,

he shall not be guilty of an offence under subsection (1).

(5) Subsection (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.

**Regulation of political broadcasts: code of standards.**

7.(1) The Gibraltar Regulatory Authority shall set, and from time to time review and revise, a code of standards for the content of programmes to be included in television and radio services in Gibraltar in relation to the EU Referendum.

- (2) The standards referred to in subsection (1) shall secure that—
  - (a) programmes, and in particular news, included in television and radio services shall be presented with due accuracy and impartiality in accordance with section 8 below; and

(b) advertising which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature, or an advertisement which is directed towards a political end, is not included in television or radio services.

(3) Broadcasters in Gibraltar shall comply with the code of standards set by the Gibraltar Regulatory Authority under subsection (1).

(4) For the purposes of this section “news” means news in whatever form it is included in a service.

(5) For the purposes of this Act, “broadcaster” means the broadcaster of a television or radio service, or both, which is made available for reception by the public in Gibraltar.

## **Due impartiality and undue prominence.**

8.(1) Programmes included in television and radio services shall exclude all expressions of the views or opinions of the person providing the services on any of the following matters—

- (a) matters of political controversy; and
- (b) matters relating to public policy,

and shall preserve due impartiality on the part of the person providing the service as regards those matters.

(2) Programmes included in television and radio services shall not give undue prominence to the views and opinions of particular persons or bodies on any of those matters.

(3) The requirements specified in subsection (1) may be satisfied by being satisfied in relation to a series of programmes taken as a whole.

(4) The requirement specified in subsection (2) is one that needs to be satisfied only in relation to all the programmes included in the service in question taken as a whole.

## **Objects of a political nature and political ends.**

9.(1) For the purposes of section 7(2)(b), objects of a political nature and political ends include—

- (a) influencing the outcome of the EU Referendum;

- (b) influencing public opinion on a matter which, in Gibraltar, is a matter of public controversy; and
- (c) promoting the interests of a party or other groups of persons, organised in Gibraltar or elsewhere, for political ends.

(2) However, subsection (1) is not to apply to, or to be construed as prohibiting, the inclusion in a television or radio service of a political broadcast under section 10.

**Political broadcasts.**

10.(1) Any broadcaster in Gibraltar shall include in its radio and television services political broadcasts made on behalf of designated organisations.

(2) The standards referred to in section 7(1) shall include conditions governing political broadcasts.

(3) The Gibraltar Regulatory Authority may, in particular, include provision for determining, in relation to designated organisations on whose behalf such broadcasts may be made, the length and frequency of the broadcasts.

**Disputes and complaints.**

11. The Gibraltar Regulatory Authority shall establish procedures for the handling and resolution of complaints about the observance of standards set under section 7(1).

**Rights of audience and right to conduct litigation in proceedings connected with the EU Referendum.**

12.(1) Persons who have a right of audience before a court in England and Wales shall have a right of audience before a court in Gibraltar in relation to proceedings connected with the EU Referendum.

(2) Persons who have a right to conduct litigation in England and Wales shall have a right to conduct litigation in Gibraltar in relation to proceedings connected with the EU Referendum.

**Designation of the Gibraltar Court.**

13. A reference to the Gibraltar court in the UK European Union Referendum Act 2015, the UK Political Parties, Elections and Referendums Act 2000, UK European Parliamentary Elections Regulations 2004 and in any other enactment made in the United Kingdom which applies to Gibraltar for the purposes of the EU Referendum, shall be construed as a reference to—

- (a) the Magistrates' Court, where in England and Wales the court would be the Magistrates' Court;
- (b) the Supreme Court of Gibraltar, where in England and Wales the court would be the county court;
- (c) the Supreme Court of Gibraltar, where in England and Wales the court would be the High Court; and
- (d) the Court of Appeal for Gibraltar, where in England and Wales the court would be the Court of Appeal.

*14. Omitted.*

**SCHEDULE 1**

Section 3

**PART 1**

**Interpretation**

**Interpretation.**

1. For the purposes of this Schedule, unless the context otherwise requires—

“2000 Act” means the Political Parties, Elections and Referendums Act 2000 (as extended to Gibraltar);

“2003 Act” means the European Parliament (Representation) Act 2003;

“2004 Regulations” means the European Parliamentary Elections Regulations 2004 as amended from time to time made by the Secretary of State under the European Parliamentary Elections Act 2002 and the European Parliamentary (Representation) Act 2003;

“available for inspection” means available for inspection during ordinary office hours;

“canvass date” has the meaning given in paragraph 9(2) below;

“certificate of anonymous registration” means a certificate issued in pursuance of paragraph 74;

“data” means information which is recorded with the intention that it should be processed by means of equipment operating automatically in response to instructions given for that purpose;

“data form” means information which is in a form which is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose;

“declaration of local connection” has the meaning given in paragraph 12 of Schedule 4 to the 2004 Regulations;

“edited register” has the meaning given in paragraph 45(1) below;

“election” means a European Parliamentary election;

“elector” in relation to an election, means any person whose name is for the time being on the Gibraltar register, but does not include those shown in the register as below voting age on the day fixed for the poll;

“enactment” has the same meaning as in section 27(2) and (3) of the 2003 Act as it applies to section 18(3)(c) of that Act;

“EU Referendum” means the referendum on whether the United Kingdom should remain a member of the European Union to be held in the United Kingdom and Gibraltar pursuant to the European Union Referendum Act 2015 passed by the Parliament in Westminster, and a reference to “the referendum” is a reference to the EU Referendum;

“full register” has the meaning given in paragraphs 11(1), 11(1A) and 11(3);

“Gibraltar register” has the meaning given in section 14(1) of the 2003 Act;

“legal incapacity” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by or under the 2003 Act or any other enactment;

“list of overseas electors” means the list prepared under paragraph 43 below;

“overseas elector” means a person falling within section 16(2) of the 2003 Act;

“overseas elector’s declaration” has the meaning given by paragraph 15(1) of Schedule 4 to the 2004 Regulations;

“polling district” shall have the meaning given by regulation 8 of the 2004 Regulations;

“qualifying address” shall be construed in accordance with paragraph 8(5) of Schedule 1;

“register” means the Gibraltar register;

“registered political party” means a party registered under Part II of the 2000 Act;

“registration officer” means the European electoral registration officer for Gibraltar (within the meaning of section 14 of the 2003 Act);  
and

“service voter” means a person who has made a service declaration (pursuant to paragraph 17 of Schedule 4 to the 2004 Regulations) and is registered or entitled to be registered in pursuance of it.

**Forms.**

2.(1) The registration officer shall supply free of charge as many forms for use in connection with paragraph 10(1) and (3) as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with the EU referendum.

(2) The form set out in the Appendix to this Schedule or a form substantially to the like effect may be used with such variations as the circumstances may require.

**Communication of applications, notices etc.**

3. The requirement in this Schedule that any application, notice, representation or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it—

- (a) is transmitted by electronic means;
- (b) is received in legible form; and
- (c) is capable of being used for subsequent reference.

**Electronic signatures and related certificates.**

4.(1) A requirement in this Schedule for an application, notice, representation or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication; and
- (b) the certification by any person of such a signature.

(2) For the purposes of this Schedule an electronic signature is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or both; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both.

(3) For the purposes of this paragraph an electronic signature incorporated into or associated with a particular electronic communication is certified by

any person if that person (whether before or after the making of the communication) has made a statement confirming that—

- (a) the signature;
- (b) a means of producing, communicating or verifying the signature; or
- (c) a procedure applied to the signature,

is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both.

**Copies of documents.**

5.(1) Where a document is made available for inspection under this Schedule, any person may make a copy (whether hand-written or by other means) of the whole or any part of it.

(2) Sub-paragraph (1) does not apply to the full register.

(3) A person inspecting the full register may not—

- (a) make copies of any part of it; or
- (b) record any particulars included in it,

otherwise than by means of hand-written notes.

(4) A person who inspects the full register and makes a copy of it or records any particulars included in it otherwise than by means of hand-written notes shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) In this Schedule “full register” includes—

- (a) any part of it; and
- (b) any notice published under paragraph 12 or 13 altering the register.

**Time.**

6.(1) Where the day or last day of the time allowed by this Schedule for the doing of anything falls on any of the days mentioned in sub-paragraph (3) below, that time shall be extended until the next following day which is not one of those days.

(2) In computing any period of not more than 7 days for the purposes of this Schedule any of the days mentioned in sub-paragraph (3) below shall be disregarded.

(3) The days referred to in sub-paragraphs (1) and (2) above are—

- (i) a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday; or
- (ii) a bank holiday or public holiday not falling within (i).

**Interference with notices etc.**

7. If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a document which have been made available for inspection in pursuance of those duties, he shall be liable on a summary conviction to a fine not exceeding £1000.

**PART 2**

**The Gibraltar register**

*Maintenance of the register*

**Gibraltar register.**

8.(1) The Gibraltar register shall contain—

- (a) the names of the persons appearing to the registration officer to be entitled to be registered in it (subject to their complying with the other requirements of this Schedule);
- (b) (subject to the exceptions in paragraph 38 below) the qualifying addresses of the persons registered in it; and
- (c) in relation to each such person, that person's electoral number.

(2) A person's electoral number is such number (with or without any letters) as is for the time being allocated by the registration officer to that person as his electoral number for the purposes of the register.

(3) Electoral numbers shall be allocated by the registration officer in such a way as to ensure, so far as is reasonably practicable, that in each separate part of the register the numbers run consecutively.

(4) The registration officer must take reasonable steps to obtain information required by him in connection with the performance of his duty under section 14(1) of the 2003 Act (without prejudice to any specific requirement of that Act, regulations made under it, or this Schedule).

(5) In this Schedule, "qualifying address", in relation to a person registered in the Gibraltar register, is the address in respect of which he is entitled to be so registered.

**Maintenance of Gibraltar register: canvass.**

9.(1) The registration officer shall conduct a canvass in Gibraltar for the purpose of ascertaining the persons who are for the time being entitled to be, or to remain, registered in the Gibraltar register.

(2) A canvass shall be conducted by reference to a day (“the canvass date”), which shall be—

- (a) in the first year, the day after this provision comes into force; and
- (b) thereafter, on the 15<sup>th</sup> October in any year preceding a European Parliamentary General Election.

(3) A canvass shall not, however, be concerned with—

- (a) the registration of persons resident in penal institutions or mental hospitals;
- (b) the registration of persons who are not resident at any address in Gibraltar; or
- (c) the registration of persons in pursuance of applications by relevant citizens of the Union.

(4) The form to be used for the purposes of a canvass shall be either in the form set out in the Appendix to this Schedule or a form to the same effect.

(5) In connection with a canvass the registration officer may, for the purpose of—

- (a) supplementing the information obtained by the use of any such form; or
- (b) where any such form has not been returned, obtaining any information designed to be obtained by the use of the form,

make such house to house inquiries as he thinks fit.

(6) On the conclusion of a canvass the registration officer shall make such alterations in the register as fall to be made in accordance with paragraph 10 below as a result of the canvass.

**Maintenance of Gibraltar register: registration of electors.**

10.(1) The registration officer shall determine all applications for registration which are—

- (a) made to him in accordance with the requirements of this Schedule; or
- (b) treated as made to him by virtue of paragraph 6 of Schedule 4 to the 2004 Regulations.

(2) The registration officer shall also determine all objections to a person's registration made in accordance with the requirements of paragraph 26 by another person whose name appears in the register.

(3) Sub-paragraphs (1) and (2) above apply to applications and objections asking—

- (a) for the omission, insertion or alteration of a date as that on which a person will become of voting age and entitled to registration; or
- (b) for the alteration of the qualifying address in respect of which a person is registered,

as they apply to applications for registration and objections to a person's registration respectively.

(3A) Subparagraph (3) above applies to an objection to a person's registration whether the objection is made before or after the person is registered in the register.

(3B) No objection to a person's registration may be made if the person has an anonymous entry in the register.

(4) Where the name of a person ("the elector") is entered in the register in respect of any address, the elector is entitled to remain registered in the register in respect of that address until such time as the registration officer—

- (a) determines, on the conclusion of a canvass under paragraph 9 above, that the elector was not resident at that address on the canvass date, or that because—
  - (i) the form mentioned in paragraph 9(4) above was not returned in respect of that address; or
  - (ii) for any other reason, insufficient information was obtained as to whether the elector was resident at that address on that date,

the registration officer is unable to satisfy himself that the elector was then so resident at that address; or

- (b) determines that the elector was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the lawful conditions for registration.

(4A) A registration officer may, for the purpose of obtaining any information relevant to a determination under sub-paragraph (4)(b) above, make such house to house inquiries as he sees fit.

(4B) The registration officer may, for the purposes of this paragraph, rely on any information which he has available to him following the canvass for the General Election held on 26 November 2015.

(5) Where the entitlement of a person to remain registered in a register in respect of any address terminates by virtue of sub-paragraph (4) above the registration officer concerned shall remove that person's entry from the register once the officer has satisfied the requirements of paragraph 35 below applying in relation to the removal of that entry.

(6) Sub-paragraph (5) above does not apply if, or to the extent that, paragraph 33 below applies.

(7) Nothing in sub-paragraph (4) or (5) applies in relation to the registration of persons in pursuance of—

- (a) applications for registration made by virtue of paragraph 10 or 11 of Schedule 4 to the 2004 Regulations; or
- (b) service declarations;
- (c) declarations of local connection;
- (d) overseas electors' declarations; or
- (e) applications falling within paragraph 9(3)(c).

(8) In this paragraph—

“determines” means determines in accordance with this Schedule;

“resident” means resident for the purposes of section 16(1)(a) of the 2003 Act.

**Publication of Gibraltar register.**

11.(1) Following the conclusion of the canvass conducted by the registration officer under paragraph 9 above, the officer shall publish a revised version of the Gibraltar register—

- (a) *Omitted.*
- (b) in any year in which a canvass is conducted by the registration officer in accordance with paragraph 9(2)(b) above, by 1st December in that year.

(1A) In addition to the obligations under subparagraph (1), the registration officer must publish a revised version of the Gibraltar register, as soon as is reasonably practicable, and no later than 2 weeks after the date of the commencement of the European Union (Referendum) Act 2016, and any requirement that the registration officer must publish a notice in advance of publication of a revised version of the Gibraltar register does not apply to the publication of the revised register published under this subparagraph.

(2) The revised versions of the register shall incorporate

- (a) all the alterations which are required to be made in it as mentioned in paragraph 9(6); and
- (b) any alterations which are required to be made by virtue of paragraph 12(3); and
- (c) any alterations which are required to be made in respect of applications which are treated as made to him by virtue of paragraph 6(2) of Schedule 4 to the 2004 Regulations.

(3) The registration officer may in addition, if he thinks fit, publish a revised version of the register at any time between—

- (a) the time when the register was last published in accordance with sub-paragraph (1) or (1A); and
- (b) the time when it is due to be next so published,

and the registration officer proposing to publish a revised version of the register in accordance with this sub-paragraph must publish notice of his intention to do so by such time and in such manner as is required by paragraph 35.

(4) When revising the register for publication under this paragraph the registration officer shall make such changes affecting the electoral numbers of persons registered in the register as he considers necessary in order to comply with paragraph 8(3).

(5) Where a revised version of the register is published at any time under this paragraph, the register has effect in the form in which it is so published as from that time until the time when—

- (a) a revised version is next so published; or
- (b) if earlier, any alteration to the register takes effect under paragraph 12 or 13 below.

(6) Any reference in this paragraph or paragraph 12 below to the publication of a revised version of the register is to its publication in accordance with paragraph 41 below.

(7) Unless the contrary intention appears, any reference in this schedule to—

- (a) a revised version of the register includes the first version; and
- (b) an alteration required to be made in a revised version of the register includes the entries made in the first version of the register.

**Alteration of register.**

12.(1) This paragraph applies where, at any time ( “the relevant time”) after the publication of a revised version of the register by a registration officer, the registration officer—

- (a) on an application for registration being made by any person in accordance with this Act, determines that that person is entitled to be so registered;
- (b) is required, by virtue of any provision of this Act, to remove a person’s entry from the register;
- (c) is notified of any decision on an appeal which requires any such alteration in the register; or
- (d) determines that the register contains any clerical error.

(2) In such a case the registration officer shall (subject to subparagraph (3) below) issue a notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him—
  - (i) on the first day of the month which follows that in which the relevant time falls; or
  - (ii) if that day is less than 14 days after that time, on the first day of the month immediately following that month; and

- (b) (subject to paragraph 13 below) the alteration in question shall have effect as from the beginning of the day on which the notice is issued.

(3) Subparagraph (2) above does not require a registration officer to issue a notice under that subparagraph in a case where (apart from this subparagraph) that subparagraph would require the notice to be issued-

- (a) at the beginning of the month containing the date on which a revised version of the register is next due to be published in accordance with the provisions of this Part; or
- (b) at the beginning of either of the two months preceding that containing the date on which a revised version of the register is next due to be published in accordance with the provisions of this Part,

and in such a case the alteration in question shall be made in that revised version of the register.

(4) Subparagraph (2) above also does not require a registration officer to issue a notice under that subparagraph in a case where paragraph 13(3) below requires him to issue a notice under that provision.

(5) No alteration affecting a published version of a register of electors shall be made otherwise than in accordance with this paragraph and paragraph 13 below.

(6) For the purposes of subparagraph (1) above “determines” means determines in accordance with the provisions of this Act.

### **Alteration of Gibraltar register: pending the EU Referendum.**

13.(1) If, by virtue of paragraph 12(2) above, an alteration in a published version of a register is to take effect after 20 June 2016, the alteration does not have effect for the purposes of the EU referendum.

- (2) Sub-paragraph (2A) below applies where—
  - (a) at any time before 20 June 2016 paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination, requirement or decision falling within any of indents (a) to (d) of that sub-paragraph;

- (b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address; and
- (c) no alteration made in consequence of the determination, requirement or decision—
  - (i) has already taken effect; or
  - (ii) is due to take effect,under sub-paragraph (2) of that paragraph on or before 20 June 2016.

(2A) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him on 20 June 2016; and
- (b) the alteration shall take effect as from the beginning of that day.

(3) Deleted.

(3A) Sub-paragraph (3B) below applies where—

- (a) at any time on or after 20 June 2016 but before 9 pm on the day of the poll, paragraph 12 above applies to a registration officer, by virtue of sub-paragraph (1) of that paragraph, in connection with a notification mentioned in paragraph (c) of that sub-paragraph; and
- (b) in consequence of the notification—
  - (i) an entry relating to that person falls to be made in the register in respect of an address; or
  - (ii) his entry in the register requires to be altered.

(3B) In such a case the registration officer shall issue, in accordance with this Schedule, notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him when he receives the notification; and
- (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.

3C) Sub-paragraph (3D) below applies where—

- (a) at any time on or after 20 June 2016 but before 9 pm on the day of the poll, paragraph 12 above applies to a registration officer by virtue of sub-paragraph (1) of that paragraph, in connection with a determination falling within paragraph (d) of that subparagraph;
- (b) the determination was made following a representation made by or on behalf of a person to the registration officer; and
- (c) in consequence of the determination—
  - (i) an entry relating to that person falls to be made in the register in respect of an address; or
  - (ii) his entry in the register requires to be altered.

(3D) In such a case the registration officer shall issue, in accordance with this Schedule, a notice specifying the appropriate alteration in the register; and—

- (a) the notice shall be so issued by him when he makes the determination; and
- (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.

(3E) In sub-paragraph (3C)(b) above, “representation” means a representation made to the effect that the register contains a clerical error.

(3F)(a) Notwithstanding anything to the contrary in this Act, subparagraphs (b) and (c) below shall apply in relation to an interim publication date where at any time before that interim publication date paragraph 12(1) applies;

- (b) on the interim publication date the registration officer shall issue, in accordance with this Schedule 1, a notice specifying the appropriate alteration in the register and the alteration shall take effect from the beginning of the interim publication date;
- (c) there shall be two interim publication dates, as follows—
  - (i) the first interim publication date shall be the nineteenth working day before the date of the poll for the referendum; and

- (ii) the second interim publication date shall be determined by the registration officer but shall be a day after the first interim publication date and before 20 June 2016.

(4) Paragraph 6 above shall apply for the purposes of this paragraph as if “bank holiday” included a day of public thanksgiving or mourning.

(5) For the purposes of subparagraph (3F)(c)(i) “working day” means a day other than-

- (a) Saturdays and Sundays;
- (b) Christmas Eve, Christmas Day, Good Friday and any day that is a bank holiday or public holiday in Gibraltar under the Banking and Financial Dealings Act and the Interpretation and General Clauses Act;
- (c) any day appointed in Gibraltar as a day of public thanksgiving or mourning.

### **Overseas Electors and Service Voters**

#### *Overseas electors*

#### **Contents of overseas elector’s declaration.**

14.(1) In addition to the information required by paragraph 15(3) and (4) of Schedule 4 to the 2004 Regulations, an overseas elector’s declaration shall state the declarant’s full name and present address and, where appropriate, the information required by paragraphs (2) to (7) below.

(2) If the declarant–

- (a) was last registered in pursuance of a service or other declaration, rather than actual residence at the address specified in pursuance of paragraph 15(4)(b) of Schedule 4 to the 2004 Regulations; and
- (b) no longer had connection with that address at the time at which he was so registered,

the declaration shall include a statement that the declarant was so registered.

(3) If the declarant claims that his name has changed since he was last registered in respect of the address specified in the overseas elector’s declaration in accordance with paragraph 15(4)(b) of Schedule 4 to the 2004 Regulations, that declaration shall–

- (a) set out the name in respect of which the declarant was last previously registered; and
- (b) give the reason for the change of name.

(4) Where a declarant—

- (a) has on a previous occasion been registered in the Gibraltar register in pursuance of an overseas elector's declaration; and
- (b) has not, since being so registered, been registered in such register by virtue of being resident or treated for the purposes of registration as resident at an address in Gibraltar,

his overseas elector's declaration shall state those facts and indicate when he was last registered in pursuance of an overseas elector's declaration.

(5) Where a declarant has not made an overseas elector's declaration in pursuance of which he was registered in the Gibraltar register since being included in the register by virtue of being resident or treated for the purposes of registration as resident at an address in Gibraltar, or has never made such a declaration, his overseas elector's declaration shall state—

- (a) in the case of a declarant who is the bearer of a passport which shows his status as a Commonwealth citizen, the number of that passport together with its date and place of issue; or
- (b) in the case of a declarant who is not the bearer of such a passport, when and how he acquired the status of Commonwealth citizen, together with the date, place and country of his birth.

(6) Where, in the case of a declarant to whom paragraph 15 below applies (and who is accordingly required to transmit a copy of his birth certificate together with his declaration), his name on his birth certificate is not the same as his name as given in his overseas elector's declaration, that declaration shall state the reason for the change of name.

(7) Where, in the case of a declarant to whom paragraph 15 below applies, he relies on the registration of either—

- (a) a parent whose name in the register referred to in paragraph 14(3)(c) of Schedule 4 to the 2004 Regulations is not the same as the name of that parent as given in either the declarant's birth certificate or overseas elector's declaration in accordance with paragraph 15(4)(c)(iii) of Schedule 4 to the 2004 Regulations; or

- (b) a guardian whose name in the register referred to in paragraph 14(3)(c) of Schedule 4 to the 2004 Regulations is not the same as the name of that guardian as given in the declarant's overseas elector's declaration in accordance with paragraph 15(4)(c)(iii) of Schedule 4 to the 2004 Regulations,

that declaration shall state the name of the parent or, as the case may be, guardian as given in the register referred to in paragraph 14(3)(c) of Schedule 4 to the 2004 Regulations and, where known, the reason for the change or, as the case may be, changes of name or, where such reason (or reasons) is not known, a statement to that effect.

**Certain declarants to supply copy of birth certificates.**

15.(1) This paragraph applies to a person who has made an overseas elector's declaration in which he claims to be qualified as an overseas elector by virtue of the conditions set out in paragraph 14(3)(c) of Schedule 4 to the 2004 Regulations, and who has not on a previous occasion made an overseas elector's declaration in pursuance of which he was registered in the Gibraltar register.

(2) Where this paragraph applies, a declarant shall transmit together with his overseas elector's declaration a copy of his birth certificate which shows the names of either or both of his parents as well as his date of birth.

**Attestation of certain overseas electors' declarations.**

16.(1) An overseas elector's declaration shall be attested in accordance with the following sub-paragraphs of this paragraph except where the declarant has on a previous occasion made such a declaration in pursuance of which he was registered in the Gibraltar register and, since being so registered, he has not been included in the register by virtue of being resident or treated for the purposes of registration as resident at an address in Gibraltar.

(2) An overseas elector's declaration shall be attested by the bearer of a passport which shows his status as a Commonwealth citizen who—

- (a) is not resident in Gibraltar;
- (b) is aged 18 years or over; and
- (c) is not the husband, wife, parent, grandparent, brother, sister, child or grandchild of the declarant.

(3) A person shall not attest an overseas elector's declaration unless he is satisfied, to the best of his knowledge and belief, that the declarant is a Commonwealth citizen who is not resident in Gibraltar on the date of the declaration.

- (4) A person attesting an overseas elector's declaration shall record on it—
- (a) his full name and address;
  - (b) that he is the bearer of a passport which shows his status as a Commonwealth citizen and the number of that passport together with its date and place of issue;
  - (c) that he is aged 18 years or over;
  - (d) that he is not resident in Gibraltar on the date of the declaration;
  - (e) that he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild of the declarant; and
  - (f) that, to the best of his knowledge and belief, the declarant is a Commonwealth citizen who is not resident in Gibraltar on the date of the declaration,

and he shall sign the declaration.

### **Transmission of overseas elector's declaration.**

17. An overseas elector's declaration shall be transmitted to the registration officer.

### **Notification about registration as overseas elector.**

18.(1) Where the registration officer is satisfied that the declarant is entitled to be registered in the Gibraltar register as an overseas elector, he shall so notify the declarant.

(2) Where the registration officer rejects an application for registration in pursuance of an overseas elector's declaration because—

- (a) in his opinion the declarant does not qualify for registration as an overseas elector under paragraph 14 of Schedule 4 to the 2004 Regulations; or
- (b) the declaration does not satisfy the requirements of paragraph 15 of Schedule 4 to the 2004 Regulations or paragraphs 14 or 16 above; or
- (c) in the case of a person to whom paragraph 15 above applies, the requirement in that paragraph has not been complied with,

he shall return the declaration to the declarant and set out his reasons for rejecting the application for registration.

*Service Voters*

**Further contents of service declaration.**

19.(1) In addition to the matters specified in sub-paragraphs (a) to (f) of paragraph 18 of Schedule 4 to the 2004 Regulations, a service declaration shall state—

- (a) the declarant's full name and present address;
- (b) the grounds on which the declarant claims a service declaration; and
- (c) such of the particulars specified in sub-paragraph (2) below as are relevant to the service qualification claimed by the declarant.

(2) Where the declarant claims a service qualification on the grounds that he is a member of the Royal Gibraltar Regiment or the spouse of such a member, the service declaration shall state—

- (a) the rank or rating of that member; and
- (b) the service number of that member.

**Transmission of service declaration.**

20. A service declaration made by a member of the Royal Gibraltar Regiment or his spouse shall be transmitted to the registration officer.

**Notification by registration officer in respect of service declarations.**

21.(1) Where the registration officer is satisfied that the service declaration is duly made he shall so notify the declarant.

(2) Where the registration officer rejects an application for registration in pursuance of a service declaration because it—

- (a) does not contain the particulars required in paragraph 18 of Schedule 4 to the 2004 Regulations and paragraph 19 above; or
- (b) does not comply with the requirements of paragraphs 16 and 17 of Schedule 4 to the 2004 Regulations,

he shall return the declaration to the declarant setting out his reasons for so doing.

### *Information about electors*

#### **Power to require information.**

22.(1) The registration officer may require any person to give information required for the purposes of his duties in maintaining the Gibraltar register.

(2) If any person—

- (a) fails to comply with; or
- (b) *deleted*

any such requisition of the registration officer as is mentioned in this paragraph, he shall be liable on summary conviction to a fine not exceeding £1000.

#### **Evidence as to age and nationality.**

23.(1) Where the registration officer has doubts about a person's age or nationality, he may require that person to produce such evidence as is specified in sub-paragraph (2) below for the purposes of registration.

(2) The evidence which the registration officer may require is as follows—

- (a) a birth certificate or a statutory declaration as to the person's date of birth;
- (b) a certificate of naturalisation;
- (c) where a person has made an overseas elector's declaration, further evidence of his status as a Commonwealth citizen;
- (d) where a person has applied for registration as a relevant citizen of the Union, evidence of his status as a national of a Member State or a statutory declaration as to that nationality;
- (e) in any other case, a statutory declaration that he is a qualifying Commonwealth citizen.

(3) If any fee is payable in connection with the making of a declaration for the purposes of this paragraph, the registration officer shall pay that fee and it shall be treated as part of his registration expenses.

(4) Any such declaration shall be made available for inspection at the registration officer's office until the determination of the application for registration and of any objections duly made to it.

(4A) Sub-paragraph (4) applies where the declarant has, or has applied for, an anonymous entry.

(5) This paragraph does not apply where an application for registration is made in pursuance of a service declaration.

(6) In this paragraph "qualifying Commonwealth citizen" has the same meaning as in section 16(5) of the 2003 Act.

**Effect of register.**

23A.(1) Any entry in the register, if it gives a date as that on which the person named will attain voting age, shall be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as a person entitled to vote by virtue of that entry unless the day fixed for the poll for the referendum is that or a later date.

(2) Subparagraph (1) applies to an entry in the record of anonymous entries.

(3) A person registered as voter or entered in the list of proxies, shall not be excluded from voting on any of the grounds set out in subparagraph (4), but this shall not affect his liability to any penalty for voting.

(4) The grounds are—

- (a) that he is not of voting age;
- (b) that he is not or was not at any particular time—
  - (i) a Commonwealth citizen;
  - (ii) a citizen of the Republic of Ireland;
- (c) that he is or was at any particular time otherwise subject to any other legal incapacity to vote.

**Effect of misdescription.**

23B. No misnomer or inaccurate description of any person or place named—

- (a) in the register, or

- (b) in any list, record, proxy paper, ballot paper, notice or other document required for the purposes of this Act,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

## **Reminders to electors registered pursuant to a declaration.**

24.(1) This paragraph applies in respect of a person registered in pursuance of—

- (a) a service declaration;
- (b) a declaration of local connection; and
- (c) an overseas elector's declaration.

(2) Subject to sub-paragraph (4) below, the registration officer shall, during the relevant period, send to a person to whom this paragraph applies a reminder of the need to make a fresh declaration if he wishes to remain registered as an elector in pursuance of such a declaration.

(3) In sub-paragraph (2) above “the relevant period” means the period beginning nine months after the date when the existing entry in a register of the person in question first takes effect and ending ten months after that date.

(4) Sub-paragraph (2) above does not apply in respect of a person to whom this paragraph applies where—

- (a) the registration officer has already received from that person a fresh declaration; or
- (b) information which the registration officer has received indicates that that person is no longer entitled to make the relevant declaration.

## **Applications for registration.**

25.(1) An application for registration as an elector under paragraph 10(1)(a) or 12(1)(a) above (“an application for registration”) shall state—

- (a) the applicant's full name;
- (b) in the case of an application by an applicant other than a relevant citizen of the Union—

- (i) the address in respect of which the applicant applies to be registered and at which he is resident on the date of the application;
  - (ii) any address in respect of which the applicant is currently registered as an elector, if he has ceased to reside at that address;
- (c) in the case of an application by a relevant citizen of the Union—
- (i) the address in respect of which the applicant applies to be registered and whether he is resident there on the date of the application;
  - (ii) if the applicant is not resident on the date of the application at the address in respect of which he applies to be registered, whether he has made a declaration of local connection; and
  - (iii) if the applicant is a merchant seaman on the date of the application, that fact;
- (d) in the case of an applicant who has not attained the age of 18 years, his date of birth;
- (e) in the case of an applicant whose application is not accompanied by an application for an anonymous entry and who wishes his name and address to be omitted from the edited version of the register, that request;
- (f) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact;
- (g) except in the case of a person applying to be registered in pursuance of an overseas elector's declaration, the applicant's nationality;
- (h) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact.
- (2) In the case of a person applying to be registered as an elector in pursuance of a service declaration, a declaration of local connection or an overseas elector's declaration, the declaration in question shall accompany the application.
- (3) An application for registration shall include a declaration made by the applicant—

- (a) that the particulars given in accordance with sub-paragraph (1) above are true;
  - (b) subject to sub-paragraph (5) below, in the case of an application by a relevant citizen of the Union—
    - (i) that he is such a citizen;
    - (ii) stating his nationality;
    - (iii) stating his address in Gibraltar, if different from the address given under sub-paragraph (1)(c)(i) above;
    - (iv) where his name has been entered in a register of electors in a locality or constituency in the Member State of which he is a national, the name of the locality or constituency (within the meaning of Council Directive 93/109/EC) where, so far as he knows, his name was last so entered; and
    - (v) that he will exercise any right which he has to vote at European Parliamentary elections at any such election only in Gibraltar during the period for which any entry in the register made in pursuance of his application remains in force;
  - (c) in any other case, but subject to sub-paragraph (5) below, stating his nationality confirming that he is a Commonwealth citizen.
- (4) An application for registration—
- (a) shall be made in writing to the registration officer and be signed and dated by the applicant; and
  - (b) in the case of an application by a relevant citizen of the Union, shall be of no effect unless it is received by the registration officer within the period of three months beginning on the date on which it is made.
- (5) In the case of a person applying to be registered in pursuance of—
- (a) a service declaration, sub-paragraph (3)(b)(i) and (c) above does not apply; and
  - (b) an overseas elector's declaration, sub-paragraph (3)(b) and (c) above does not apply.

(6) Where the registration officer provides the form on which an application for registration is made, the form of words in Part II of the Form set out in the Appendix to this Schedule or a form of words to the same effect, must form part of the application form.

(7) Where an application for registration is made otherwise than on a form provided by the registration officer, that officer must, on or before the determination of the application, send to the applicant the form of words referred to in sub-paragraph (6) above and must, at the same time, inform the applicant, in writing, that he may, before the end of the period of 21 days, starting with the day on which the officer sends that form of words to the applicant, make a request, in writing, to the registration officer that he wishes his name and address to be excluded from the edited version of the register.

(8) Where an applicant does not reply to the registration officer within the period of 21 days mentioned in sub-paragraph (7), the registration officer shall assume that the applicant does not request that his name and address be excluded from the edited version of the register.

(9) Where an applicant does reply to the registration officer within the period of 21 days mentioned in sub-paragraph (7) and in his response requests that his name and address be excluded from the edited version register, that request shall be treated as part of the application for registration.

(10) Sub-paragraphs (6) to (9) do not apply to an application for registration which is accompanied by an application for an anonymous entry.

**Objections to registration.**

26.(1) Any objection to a person's registration shall state—

- (a) the name of the person against whom the objection is made;
- (b) in the case of an objection made before that person is entered in the register the address of that person as given in the application for registration;
- (ba) in the case of an objection made after that person is entered in the register, the electoral number and qualifying address of that person contained in the register;
- (c) the grounds of the objection;
- (d) the name of the objector and his address as shown in the register (if so shown) together with the address to which

correspondence should be sent if that address is different or if no address is shown in the register; and

- (e) the electoral number of the objector.

(2) An objection shall be made in writing and be signed and dated by the person objecting.

(3) In this Schedule “objection” includes representations made against an application for registration under paragraph 12(1)(a) above.

## **Inspection of applications and objections.**

27. (1) An application for registration and any objection to a person’s registration shall be made available for inspection at the registration officer’s office until the application or objection has been determined by the registration officer.

(2) This paragraph does not apply to an application for registration which is accompanied by an application for an anonymous entry.

### *Determination of applications and objections*

## **Procedure for determining applications for registration and objections without a hearing.**

28.(1) The registration officer shall discharge his functions of determining an application for registration under paragraph 10(1) or 12(1)(a) above and an objection under paragraph 10(2) above in accordance with this paragraph and paragraphs 29 to 30A below.

(2) The registration officer must keep separate lists of—

- (a) applications for registration;
- (b) objections made before the person against whom the objection is made is entered in the register;
- (c) objections made after the person against whom the objection is made is entered in the register.

(2A) On receipt of an application the registration officer must enter the name of the applicant and the address claimed as his qualifying address in the list he keeps in pursuance of sub-paragraph (2)(a).

(2B) Sub-paragraph (2A) does not apply to an application accompanied by an application for an anonymous entry.

(2C) On receipt of an objection made before the person against whom the objection is made is entered in the register, the registration officer must enter—

- (a) in the list he keeps in pursuance of sub-paragraph (2)(b), the name and qualifying address of the objector together with the particulars referred to in sub-paragraph (2A); and
- (b) in the list he keeps in pursuance of sub-paragraph (2)(a), the particulars of the objection.

(2D) On receipt of any other objection, the registration officer must enter the name and qualifying address of the objector together with the particulars referred to in sub-paragraph (2A) in the list he keeps in pursuance of paragraph (2)(c).

(3) The registration officer may ask for further information and take no further action until such information is supplied, if he is of opinion that the particulars given in the application or objection are insufficient.

(4) Subject to sub-paragraph (4A), the registration officer may allow an application without a hearing provided that no objection is made within the period of five days beginning with the day following the entry of the application in the list of applications.

(4A) In the case of an application for registration accompanied by an application for an anonymous entry, the registration officer may allow the former application without a hearing at any time.

(5) The registration officer may disallow an objection if he is of opinion that the objector is not entitled to object; and he shall so inform the objector.

(5A) The registration officer may disallow an objection without a hearing if he is of the opinion that the objection is clearly without merit.

(5B) Where the registration officer disallows an objection under sub-paragraph (5A), he must send to the objector a notice stating that the application has been disallowed on that basis and the grounds for his opinion.

(5C) An objector may require the objection to be heard by giving notice to the registration officer within three days from the date of the notice given under sub-paragraph (5B).

(5D) A notification under sub-paragraph (5C) is not to prevent the application to which the objection relates from being allowed.

(6) The registration officer may send to the applicant or objector a notice stating his opinion that an application or objection cannot be allowed because—

- (a) the matter has been concluded by the decision of a court; or
- (b) the particulars given in the application or objection do not entitle the applicant or objector to succeed.

(7) In cases to which sub-paragraph (6) above applies, the registration officer shall state the grounds for his opinion and that he intends to disallow the application or objection unless that person gives the registration officer notice within three days from the date of the registration officer's notice that he requires the application or objection to be heard; and if he receives no such notice within that time, he may disallow the application or objection.

(8) In this paragraph, “qualifying address” includes the address specified in an overseas elector's declaration.

## **Notice of hearing.**

29.(1) The registration officer shall, unless he allows or disallows the application or objection under paragraph 28 above, send a notice—

- (a) in the case of an application, to the person making the application; and
- (b) in the case of an objection, to the objector and the person objected to, stating—
  - (i) the time and place at which he proposes to hear the application or objection;
  - (ii) the name and address of the objector and the grounds of the objection (in the case of a notice sent to a person objected to).

(2) The time fixed for the hearing of an application or objection shall not be earlier than the third day or later than the seventh day after the date of the notice referred to in sub-paragraph (1) above.

## **Hearing of applications and objections.**

30.(1) The persons entitled to appear and be heard are as follows—

- (a) on an application, the applicant;
- (b) on an objection, the objector and the person objected to;

- (c) on an application or an objection, any other person who appears to the registration officer to be interested.

(2) The right to appear and be heard includes the right to make written representations.

(3) Any person entitled to appear and be heard may do so either in person or by any other person on his behalf.

(4) The registration officer may, at the request of any person entitled to appear and be heard or, if he thinks fit, without such a request, require that the evidence tendered by any person shall be given on oath and may administer the oath for the purpose.

**Objections relating to applications that have been allowed, but before alterations to register have taken effect.**

30A.(1) This paragraph applies where—

- (a) an application for registration has been allowed (whether without or following a hearing); and
- (b) either—
  - (i) an objection is later made to that application; or
  - (ii) an objector whose objection in respect of that application has been disallowed notifies the registration officer, in accordance with this Schedule that he requires the objection to be heard, and
- (c) no alteration to the register has yet taken effect in respect of that application by virtue of this Schedule.

(2) Where the registration officer—

- (a) is able to determine the objection before the alteration to the register is due to take effect; and
- (b) allows the objection,

the application is to be treated as if it had been disallowed.

(3) Where the registration officer is not able to determine the objection before the alteration to the register is due to take effect, the objection is to be treated as if it was made after the person against whom it is made is entered in the register.

**Other determinations by registration officer of entitlement to registration.**

30B.(1) A registration officer must discharge the functions specified in sub-paragraph (2) in accordance with paragraphs 30C to 30F.

(2) The functions specified in this sub-paragraph are—

- (a) determining whether a person was entitled by law to be registered;
- (b) determining whether a person has ceased to be resident at the address in respect of which he is entered in the register or otherwise ceased to satisfy the lawful conditions for registration.

**Summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration.**

30C.(1) In any of the circumstances specified in sub-paragraph (2) the registration officer may make the determination specified in paragraph 30B(2)(b) without following the procedure set out in paragraphs 30D to 30F.

(2) The circumstances specified in this paragraph are where the registration officer—

- (a) has received an application under paragraph 25, which includes a statement to which sub-paragraph (1)(c) of that paragraph refers;
- (b) has been given information by the elector that he has ceased to reside at the address in question or has otherwise ceased to satisfy the conditions for registration;
- (c) has been notified by a relative or executor of the elector or by the registrar of births and deaths that the elector has died.

(3) In sub-paragraph (2) “elector” means a person who is duly entered in a register in respect of an address; “relative” means a spouse, parent, grandparent, brother, sister, child or grandchild.

**Procedure for reviewing entitlement to registration.**

30D.(1) A registration officer may, for the purposes of making a determination of the nature specified in paragraph 30B(2), conduct a review in respect of a person entered in the register.

(2) Where the registration officer is not satisfied that the subject of the review is entitled to be registered, he must—

- (a) send to that person such notice, of a kind specified in sub-paragraph (4), as he considers appropriate; and
- (b) enter the review in the list kept in pursuance of paragraph 30E.

(3) Sub-paragraph (2)(b) does not apply where the subject of a review has an anonymous entry.

(4) A notice is specified for the purposes of this paragraph if it—

- (a) states that the registration officer is of the opinion that the subject of the review is not entitled to be registered and the grounds for his opinion;
- (b) states the reason for the review and requires the subject of the review to provide such further information as might be specified in the notice or requires him to make a declaration under this Schedule or both; or
- (c) states the reason for the review and that the registration officer intends to conduct a hearing of it.

(5) Where—

- (a) the registration officer sends to the subject of the review a notice in the form specified in sub-paragraph (4)(a); and
- (b) that person does not, within 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration.

(6) Sub-paragraph (7) applies where—

- (a) the registration officer sends to the subject of the review a notice in the form specified in sub-paragraph (4)(b), and
- (b) that person does not respond to the registration officer's satisfaction, or at all, within the period of 28 days beginning with the date of that notice.

(7) The registration officer may send a notice to the subject of the review which states that he is not satisfied that that person is entitled to be registered, and the grounds for his opinion.

(8) Where—

- (a) the registration officer sends to the subject of the review a notice in pursuance of sub-paragraph (7); and
- (b) the subject of the review does not, within the period of 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration.

(9) In making a determination under sub-paragraph (5) or (8), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.

(10) In this paragraph and paragraphs 30E and 30F—

“review” must be construed in accordance with sub-paragraph (1);

“the subject of the review” means the person in respect of whom the review is conducted.

## **List of reviews.**

30E.(1) The registration officer must keep a list of reviews.

- (2) The list must contain, in relation to each review, the following particulars—
  - (a) the full name of the subject of the review;
  - (b) his electoral number;
  - (c) his qualifying address; and
  - (d) the reason for the review.

(3) The list must be made available for inspection at the registration officer's office.

(4) This paragraph does not apply to any review where the subject of the review has an anonymous entry.

**Hearings of reviews.**

30F.(1) Where the registration officer determines that a hearing of the review should be conducted, the notice given under paragraph 30D(4)(c) must also state the time and place at which he proposes to hear the review.

(2) Where the subject of the review requires the review to be heard, the registration officer must send to that person a notice stating the time and place at which he proposes to hear the review.

(3) The time fixed for the hearing must not be earlier than the third day after the date of the notice in which that time is stated.

(4) The persons entitled to appear and be heard are—

- (a) the subject of the review;
- (b) any other person who appears to the registration officer to be interested.

(5) Sub-paragraphs (2) to (4) of paragraph 30 apply to the hearing of a review as they apply to the hearing of an application for registration or objection.

(6) The registration officer may determine that the subject of the review was not entitled to be registered or, as the case may be, has ceased to satisfy the conditions for registration, despite the failure of that person (or any other person entitled to appear and be heard) to attend.

(7) In making a determination under sub-paragraph (6), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.

**Registration appeals.**

31.(1) This paragraph makes provision in connection with the right of appeal—

- (a) from the decision of a registration officer regarding an application for registration;
- (b) from the decision of a registration officer made in accordance with paragraphs 30C to 30F that a person was not entitled to be

registered or, as the case may be, has ceased to satisfy the conditions for registration;

- (c) from a determination of the registration officer made in accordance with paragraph 30H.

(2) A person desiring to appeal must—

- (a) give notice of appeal to the registration officer and to the opposite party (if any) when the decision is given, or within 14 days thereafter; and
- (b) specify the grounds of appeal.

(3) The registration officer shall forward any such notice to the Supreme Court of Gibraltar in accordance with rules of court together, in each case, with—

- (a) a statement of the material facts which in his opinion have been established in the case; and
- (b) his decision upon the whole case and on any point which may be specified as a ground of appeal.

(4) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the Supreme Court of Gibraltar of this to enable the court (if it thinks fit) to consolidate the appeals or select a case as a test case.

(5) No appeal lies from the decision of the Court of Appeal for Gibraltar on appeal from a decision of the Supreme Court of Gibraltar under this paragraph.

(6) An appeal to the Supreme Court of Gibraltar or Court of Appeal for Gibraltar by virtue of this paragraph which is pending on the day on which the notice of referendum is issued shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(7) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the Supreme Court of Gibraltar or of the Court of Appeal for Gibraltar on any appeal by virtue of this section, and the registration officer shall, in accordance with paragraphs 12 and 13 above, make such alterations in the register as may be required to give effect to the decision.

(8) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of subparagraph (7) takes effect under paragraph 11(5), 12(2) or 13(2) on or before the date of the poll for the referendum, subparagraph (6) does not apply to that appeal as respects the referendum.

(9) The registration officer shall on any such appeal be deemed to be a party to the proceedings.

32. *Omitted.*

**Retaining entries in register.**

33.(1) This paragraph sets out the circumstances when the registration officer's duty to remove a person's entry from the register under paragraph 10(5) above does not apply.

(2) Those circumstances are that—

- (a) on the conclusion of a canvass under paragraph 9 above the registration officer is unable to satisfy himself that a person duly entered in the register in respect of any address was, on the canvass date, resident at that address because—
  - (i) the form mentioned in paragraph 9(4) above was not returned in respect of that address; or
  - (ii) for any other reason, insufficient information was obtained as to whether that person was resident at that address on that date;
- (b) the registration officer has no information which suggests that that person is no longer so resident; and
- (c) that person was registered at that address otherwise than in pursuance of—
  - (i) an application made by persons resident in a mental hospital who are not detained offenders or on remand, or people remanded in custody; or
  - (ii) a declaration of local connection, a service declaration or an overseas elector's declaration.

(3) Where the circumstances set out in this paragraph apply, the registration officer is authorised to retain the entry of the person concerned in the register for the period expiring with the publication of a revised version of the register under paragraph 11(1) above in the year next

following that in which the canvass referred to in sub-paragraph (2)(a) above was conducted.

**Registration officer's right to inspect certain records.**

34.(1) The registration officer is authorised to inspect, for the purpose of his registration duties, records kept (in whatever form) by—

- (a) an authority listed in sub-paragraph (2) below; or
- (b) any person providing services to, or authorised to exercise any function of, any such authority.

(2) Those authorities are—

- (a) the Government of Gibraltar; and
- (b) the registrar of births and deaths.

(3) The registration officer is authorised to make copies of information contained in such records.

**Notices in connection with registration.**

35.(1) A notice under paragraph 11(3) above must be published—

- (a) not less than 14 days before the publication of the revised version of the register;
- (b) in the Gibraltar Gazette; and
- (c) by posting a copy of it at his office and in some conspicuous place or places in Gibraltar.

(2) A notice under paragraph 12 or 13 above must be issued by—

- (a) making a copy of it available for inspection under supervision—
  - (i) at his office; and
  - (ii) at such places, if any, in Gibraltar as allow members of the public in Gibraltar reasonable facilities for that purpose;
- (b) supplying copies of it in accordance with Part 3 of this Schedule; and

- (c) except in a case falling within paragraph 30C(2)(d) above, sending a copy of it to any person affected by its contents.

*Form of the register*

**Separate part of a register for each polling district.**

36. The register shall be framed in separate parts for each polling district.

**Different letter for each parliamentary polling district.**

37. There shall be a different letter or letters in the register for each polling district and such letter or letters shall be deemed to form part of an elector's number in the register.

**Qualifying addresses which are not included in the register.**

38.(1) Paragraph 8(1)(b) (which requires the Gibraltar register to contain the qualifying addresses of the persons registered in it) does not apply—

- (a) to an address to which sub-paragraph (2) or (3) below applies; or
- (b) which is specified in an overseas elector's declaration in accordance with paragraph 15(4)(b) or (c)(ii) of Schedule 4 to the 2004 Regulations.

(2) This paragraph applies to an address where it appears to the registration officer that—

- (a) a service voter in his service declaration; or
- (b) a person who has made a declaration of local connection;
- (c) has given that address in such a declaration as an address—
  - (i) at which he has resided; but
  - (ii) which is not an address at which he is or would be residing but for the circumstances entitling him to make such a declaration.

(3) This paragraph applies to an address given in a declaration of local connection in accordance with paragraph 12(4)(b) of Schedule 4 to the 2004 Regulations.

**Order of names.**

39.(1) Subject to sub-paragraphs (2) and (3) below, the names and addresses of each separate part of the register shall be arranged in street order.

(2) If the registration officer determines for any part of the register that street order is not reasonably practicable, the names and addresses shall be arranged in alphabetical order or partly in street order and partly in alphabetical order.

(3) The name of any person whose qualifying address is not contained in the register by virtue of paragraph 38 above shall be grouped together in alphabetical order—

- (a) at the end of that part of the register to which the address relates;
- (b) beneath the heading “Other electors”; and
- (c) without giving that address.

## **Marking of names.**

40.(1) Sub-paragraphs (2) and (3) below specify the marks to appear against a person’s entry in the register to indicate that he is registered as a relevant citizen of the Union or an overseas elector.

(2) To indicate that a relevant citizen of the Union is registered in the register, the letter “G” shall be placed against his entry.

(3) To indicate that an overseas elector is registered in the register, the letter “F” shall be placed against his entry.

## **Anonymous entries.**

40A.(1) An anonymous entry of a person consists of that person’s electoral number together with the letter “N”.

(2) The entry is to be entered in the register—

- (a) at the end of the part of the register which relates to the qualifying address of the person entitled to the entry; and
- (b) following the names grouped together under that heading.

## **Publication of register.**

41.(1) The manner in which each revised version of the full register is to be published under paragraph 11(1), (1A) and (3) above is by the registration officer–

- (a) making a copy of it available for inspection under supervision–
  - (i) at his office; and
  - (ii) at such places, if any, in Gibraltar as allow members of the public in Gibraltar reasonable facilities for that purpose; and
- (b) supplying copies of it in accordance with Part 3 of this Schedule.

(2) Where a copy of the full register is made available pursuant to sub-paragraph (1)(a) above by providing the register on a computer screen or otherwise in data form, the registration officer shall ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to–

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic, or any other, means.

(3) The revised version of the register shall be kept published until the coming into force of the next revised version of it.

**Information about register.**

42.(1) As soon as practicable after the publication of a revised version of the register under paragraph 11(1) or (1A) above, the registration officer shall supply to the Secretary of State a document setting out the information about electors which is required by sub-paragraphs (2) to (4) and (5) below.

(2) The document referred to in sub-paragraph (1) above shall state that it is in respect of the Gibraltar register and shall list the following total numbers of electors in it, namely–

- (a) electors (including those referred to in sub-paragraph (b) below); and
- (b) those registered in pursuance of paragraph 5 of Schedule 4 to the 2004 Regulations.

(3) The document referred to in sub-paragraph (1) above shall set out separately as respects those electors referred to in sub-paragraphs (a) and (b) of sub-paragraph (2) above the following totals, namely—

- (a) those registered by virtue of residence at a qualifying address;
- (b) those registered in pursuance of a service declaration;
- (c) those registered in pursuance of an overseas elector's declaration; and
- (d) those registered in pursuance of a declaration of local connection.

(4) The document referred to in sub-paragraph (1) above shall state the letters referred to in paragraph 37 above for each polling district and shall list the following total numbers of electors in each district namely—

- (i) electors (including those referred to in sub-paragraph (ii)) below; and
- (ii) those registered by virtue of paragraph 5 of Schedule 4 to the 2004 Regulations.

(5) The document referred to in sub-paragraph (1) shall state the total number of electors who have an anonymous entry.

## **Preparation and publication of list of overseas electors.**

43.(1) The registration officer shall prepare a list of the names of each person who appears to him to be entitled to be registered in pursuance of an overseas elector's declaration ("the list of overseas electors"); and shall include in that list the address specified in that declaration in accordance with paragraph 15(4) of Schedule 4 to the 2004 Regulations and paragraph 14 above.

(2) The names of the persons included shall be listed in alphabetical order.

(3) At the time when the registration officer publishes a revised version of the register under paragraph 11(1) or (1A) above, he shall publish the list of overseas electors by making a copy of it available for inspection under supervision at his office; and the list shall be kept so published until the next revised version of the register is published under paragraph 11(1) above.

## **PART 3**

### **Supply of Register etc**

*Interpretation and edited register*

**Interpretation and application of Part 3 etc.**

44.(1) In this Part “register” includes–

- (a) any part of the register; and
- (b) (except in paragraph 45 below and in the context of the supply by the registration officer of the register and notices altering the register), any notice altering the register which is published under paragraph 12 or 13 above.

(2) In this Part “processor” means any person who provides a service which consists of putting information into data form or processing information in data form and any reference to a processor includes a reference to his employees.

(3) In this Part, any reference to an employee of any person who has access to a copy of the full register shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service.

(4) Where any person has been supplied with a copy of a register of electors pursuant to the Representation of the People Regulations (England and Wales) Regulations 2001, Representation of the People (Scotland) Regulations 2001, or the Representation of the People (Northern Ireland) Regulations 2008 as modified by the UK European Union Referendum Act 2015 or the UK European Union Referendum (Conduct) Regulations 2016, that person shall be under the same duties and obligations and subject to the same penalties in relation to the copy supplied as he would have been under had that copy been supplied to him pursuant to this Act (and, accordingly, where that copy is a copy of a full register he shall be under the same duties, obligations and penalties that he would have been under had he been supplied with a copy of a full register pursuant to this Act).

(5) Subject to any direction of the Secretary of State or the Chancellor of the Duchy of Lancaster under paragraph 21 of the Schedule 4 to the 2004 Regulations or under section 52 of the United Kingdom’s Representation of the People Act 1983, as modified by the UK European Union Referendum Act 2015 or the UK European Union Referendum (Conduct) Regulations 2016, any duty on the registration officer to supply data under this Part imposes only a duty to supply data in the form in which he holds it.

(6) The registration officer shall not supply data which includes information not included in the printed version of the full register otherwise than under a provision in an enactment.

(7) Any person who has obtained a copy of the full register under paragraphs 50, 52, 53, 54, 55 or 57 may—

- (a) supply a copy of the full register to a processor for the purpose of processing the information contained in the register;
- (b) procure that a processor processes and provides to them any copy of the register which the processor has obtained under this Schedule,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

(8) Any processor to whom a copy of the full register is supplied under paragraph (7) above shall be one who carries on business in the European Economic Area and the information contained in the register must not be transmitted outside the European Economic Area by the processor.

(9) The processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under this Schedule or any employee of such a person.

(10) The restrictions contained in paragraphs 46(3), 50(3), 52(2), 53(3) and 56(4) below apply to a person to whom the full register, or any information contained in it (that is not contained in the edited register) has been supplied or disclosed under those paragraphs as they apply to the person to whom those paragraphs apply.

## **Edited version of register.**

45.(1) At the time when the registration officer publishes a version of the register under paragraph 11(1), (1A) or (3) above, (“the full register”), he shall also publish a version of the register under this paragraph (“the edited register”).

(2) The edited register shall omit the name and address of any elector whose details are included in the full register, if a request has been duly made in the form referred to in paragraph 9(4) or in accordance with paragraph 25 above by or on behalf of that elector for his name and address to be excluded from the edited register.

(2ZA) A person registered pursuant to paragraph 6(2) of Schedule 4 to the 2004 Regulations (*Deemed registrants*) shall be deemed to have elected for his name and address to be excluded from the edited register.

(2ZB) A person to whom subparagraph (2ZA) applies may apply to the registration officer for inclusion in the full register and upon receipt of such an application he shall be so included.

(2A) The edited register shall omit all anonymous entries in the register, and any information relating to them.

(3) In other respects the edited register shall be identical to the full register (and, accordingly, shall include any mark or date which is required to be recorded against the name of any elector).

(4) Notwithstanding the omission of names and addresses in accordance with sub-paragraph (2), paragraph 39 above shall apply to the edited register as it applies to the full register.

(5) Unless the contrary intention appears, any reference in this Schedule to the register is to the full register.

(6) The manner in which each revised version of the edited register is to be published under this paragraph is—

- (a) by the registration officer making a copy of it available for inspection at his office; and
- (b) by such other means (if any) as he thinks appropriate.

(7) Each revised version of the edited register shall be kept published until the coming into force of the next revised version of it.

*General restrictions*

**Restrictions on supply of full register and disclosure of information from it by the registration officer and his staff.**

46.(1) This paragraph applies to—

- (a) the registration officer;
- (b) any deputy registration officer; and
- (ba) the Chief Counting Officer and any Regional Counting Officer; and
- (bb) any deputy of the Chief Counting Officer or of any Regional Counting Officer; and

- (c) any person appointed to assist any such officer or who in the course of his employment is assigned to assist any such officer in his registration duties.

(2) This paragraph also applies to—

- (a) the registration officer acting in his capacity as returning officer or the counting officer at the EU Referendum;
- (b) any deputy returning officer or deputy acting returning officer or counting officer; and
- (c) any person appointed to assist any person mentioned in paragraph (a) or (b) or who in the course of his employment is assigned to assist any such officer in his duties in respect of the EU Referendum.

(3) No person to whom this paragraph applies may—

- (a) supply to any person a copy of the full register;
- (b) disclose information contained in it (and not contained in the edited register); or
- (c) make use of any such information,

otherwise than in accordance with an enactment, including this Schedule.

(4) Nothing in sub-paragraph (3) above applies to the supply or disclosure by a person to whom this paragraph applies to another such person in connection with his registration duties or for the purposes of the EU Referendum.

**Restriction on use of the full register, or information contained in it, supplied in accordance with enactments or obtained otherwise.**

47.(1) This paragraph applies to—

- (a) any person to whom a copy of the full register has been supplied in pursuance of a relevant provision;
- (b) any person to whom information contained in the full register has been disclosed in pursuance of a relevant provision;
- (c) any person to whom a person referred to in sub-paragraph (a) or (b) has supplied a copy of the full register or information contained in it for the purposes (express or implied) of a relevant provision; and

- (d) any person who has obtained access to a copy of the full register or information contained in it by any other means.

(2) No person to whom this paragraph applies may—

- (a) supply a copy of the full register;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

other than—

- (i) where the copy was supplied or the information obtained in pursuance of a relevant provision, for the particular purpose for which the copy was supplied or the information disclosed to the person in question pursuant to the relevant provision; or
- (ii) where the copy was not supplied or the information disclosed in pursuance of a relevant provision, for any purposes for which the person to which this paragraph applies could have obtained a copy of the register or the information contained in it pursuant to any enactment, including this Schedule.

(3) In this paragraph “relevant provision” means any enactment (except this Schedule) under which a copy of the full register is to be supplied or information from that register disclosed for a particular purpose.

*Supply on publication and specific restrictions*

**Supply of free copy of full register to the British Library and to the John Mackintosh Hall Library and restrictions on use.**

48.(1) The registration officer shall supply, free of charge and on publication, one printed copy of—

- (a) a revised version of the register published under paragraph 11(1), (1A) or (3) above; and
- (b) a list of overseas electors,

to the British Library and to the John Mackintosh Hall Library.

(2) No person employed by the British Library or the John Mackintosh Hall Library may—

- (a) supply a copy of the full register other than to another such person or to a person using the Library to inspect it under supervision;
- (b) disclose any information contained in it (that is not contained in the edited register) otherwise than in accordance with paragraph 11(1), (1A) or (3); or
- (c) make use of any such information.

(3) No information which is contained in the full register (that is not contained in the edited register) may be disclosed otherwise than by allowing a person using the British Library or the John Mackintosh Hall Library to inspect it under supervision.

(4) A person who inspects the copy of the full register held by the British Library or the John Mackintosh Hall Library may not—

- (a) make copies of any part of it; or
- (b) record any particulars included in it,

otherwise than by means of hand-written notes.

### **Supply of free copy of full register etc to Office for National Statistics and Gibraltar Statistics Office and restrictions on use.**

49.(1) The registration officer shall supply, free of charge and on publication, one copy of—

- (a) a revised version of the register published under paragraph 11(1), (1A) or (3) above;
- (b) a notice setting out an alteration to the register published under paragraph 12 or 13 above; and
- (c) a list of overseas electors,

to the Office for National Statistics and the Gibraltar Statistics Office (either of which are in this paragraph referred to as “the Office”).

(2) In sub-paragraph (1) the duty to supply is a duty to supply in data form unless, prior to publication, the Office has requested in writing a printed copy instead.

(3) No person employed by the Office may—

- (a) supply a copy of the full register other than to another such person;
- (b) disclose any information contained in it (that is not contained in the edited register) otherwise than in accordance with sub-paragraph (4) below; or
- (c) make use of any such information other than for statistical purposes.

(4) No information which is contained in the full register and not in the edited register may be disclosed otherwise than—

- (a) by allowing a person using the premises of the Office to inspect it under supervision; and
- (b) by publishing information about electors which does not include the name or address of any elector.

(5) A person who inspects the full register may not—

- (a) make copies of any part of it; or
- (b) record any particulars included in it,

otherwise than by means of hand-written notes.

**Supply of free copy of full register etc to Electoral Commission and restrictions on use.**

50.(1) The registration officer shall supply, free of charge and on publication, one copy of—

- (a) a revised version of the register published under paragraph 11(1), (1A) or (3) above;
- (b) a notice setting out an alteration to the register published under paragraph 12 or 13 above; and
- (c) a list of overseas electors,

to the Electoral Commission (in this paragraph referred to as “the Commission”).

(2) In sub-paragraph (1) the duty to supply is a duty to supply in data form unless, prior to publication, the Commission has requested in writing a printed copy instead.

(3) Neither the Electoral Commissioners nor any person employed by the Commission may—

- (a) supply a copy of the full register other than to an Electoral Commissioner or another such person;
- (b) disclose any information contained in it that is not contained in the edited register otherwise than in accordance with sub-paragraph (5) below; or
- (c) make use of any such information otherwise than in connection with their functions under, or by virtue of, the 2000 Act.

(4) In sub-paragraph (3) “Electoral Commissioner” includes an Assistant Electoral Commissioner.

(5) The full register or any information contained in it and not in the edited register may not be disclosed otherwise than—

- (a) where necessary to carry out the Commission’s duties in relation to the rules on permissible donors in the 2000 Act; or
- (b) by publishing information about electors which does not include the name or address of any elector.

*Supply on request and specific restrictions*

**Supply of full register etc under paragraphs 52 to 57: general provisions.**

51.(1) The persons or organisations falling within paragraphs 52 to 57 below may request the registration officer to supply free of charge any of the following—

- (a) a revised version of the register published under paragraphs 11(1), (1A) or (3) above;
- (b) a notice setting out an alteration to the register published under paragraphs 12 or 13 above;
- (c) a list of overseas electors.

(2) Such a request shall be made in writing and shall—

- (a) specify the documents requested;
- (b) subject to sub-paragraph (5) below, state whether the request is made only in respect of the current documents or whether it

includes a request for the supply of any subsequent document on publication for as long as the person making the request falls within the category of person entitled to receive such copies; and

- (c) state whether a printed copy of any of the documents is requested instead of the version in data form.

(3) Unless a request has been made in advance of supply under sub-paragraph (2)(c) above, the copy of a document supplied under this paragraph shall be in data form.

(4) The registration officer shall supply the documents referred to in sub-paragraph (1) above in accordance with a request that has been duly made.

(5) A person falling within paragraph 56 below may not make the request for the supply of any subsequent document on publication.

(6) A person who obtains a copy of any document under sub-paragraph (4) above may use it for any purpose for which that person would be entitled to obtain that document under this Schedule and any restrictions which apply under whichever of paragraphs 66 to 73 below entitles that person to obtain that document for that purpose shall apply to such use.

52. *Omitted.*

**Supply of full register etc to local constituency parties and restrictions on use.**

53.(1) This paragraph applies to any person nominated to act for the purposes of this paragraph for Gibraltar by the registered nominating officer, (within the meaning of section 24 of the 2000 Act) of a registered political party.

(2) Not more than one person for Gibraltar may be nominated under sub-paragraph (1) above in respect of the same registered political party.

(3) No person to whom this paragraph applies who has been supplied with a copy of the register may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

otherwise than for electoral purposes or the purposes of electoral registration.

**Supply of full register etc to registered political parties etc and restrictions on use.**

54.(1) This paragraph applies to—

- (a) a registered political party other than a minor party, within the meaning of section 160(1) of the 2000 Act; and
- (b) a recognised third party within the meaning of section 85(5) of that Act, other than a registered political party.
- (c) a permitted participant within the meaning of section 105(1) of the 2000 Act, which either is not a registered political party or is a minor party within the meaning of section 160(1) of that Act.

(2) No person employed by, or assisting (whether or not for reward) a party or participant to which this paragraph applies and to which a copy of the register has been supplied may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

otherwise than for the purposes set out in sub-paragraph (3) below.

(3) Those purposes are—

- (a) in the case of a party falling within paragraph (1)(a) or (b)-
  - (i) electoral purposes, and
  - (ii) the purpose of complying with the controls on donations under Part IV of or, as the case may be, Schedule 11 to the 2000 Act; and
- (b) in the case of a permitted participant within the meaning of section 105(1) of that Act-
  - (i) purposes in connection with the campaign in respect of the referendum identified in the declaration made by the participant under section 106 of that Act, and

- (ii) the purposes of complying with the controls on donations in Schedule 15 to that Act,
- (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 UK European Union Referendum Act 2015.

**Supply of full register etc to Government of Gibraltar or to United Kingdom government department.**

55.(1) Sub-paragraphs (2) to (3) of this paragraph apply to the Government of Gibraltar or to a United Kingdom government department.

(2) Subject to sub-paragraph (3) below, no member of or employee of the Government of Gibraltar or United Kingdom government department may—

- (a) supply a copy of the full register to any person other than to another member of or employee of the Government of Gibraltar or United Kingdom government department;
- (b) disclose any information contained in it that is not included in the edited register; or
- (c) make use of any such information.

(3) A member of or employee of the Government of Gibraltar or United Kingdom government department may supply a copy of the register, or disclose or make use of information contained in it that is not contained in the edited register—

- (a) for the purposes of the prevention and detection of crime and the enforcement of the criminal law (whether in Gibraltar, England and Wales or elsewhere);
- (b) the vetting of employees and applicants for employment, where such vetting is required pursuant to any enactment;
- (c) for statistical purposes, in which case no information shall be disclosed which includes the name and address of any elector (whether that name or address appears in the edited register or only in the full register); and

- (d) to a person (“an authorised person”), who may only disclose information contained in it in accordance with sub-paragraph (5) below.

(4) In this paragraph any reference to an authorised person includes a reference to his employees.

(5) Information contained in the full register may not be disclosed by an authorised person except to any person falling within paragraphs 52 to 54 and 56; and for use for the purposes for which such a person could obtain a register under the paragraph concerned.

(6) The restrictions in paragraphs 52 to 54 and 56 respectively apply to a person to whom information contained in the full register is disclosed under sub-paragraph (5) as they apply to a person to whom a copy of the register is supplied under those paragraphs.

*56. Omitted.*

## **Supply of full register etc to police forces and restrictions on use.**

57.(1) This paragraph applies to—

- (a) the Royal Gibraltar Police; and
- (b) any police force in Great Britain.

(2) No person serving whether as a constable, officer or employee in any of the forces and organisations to which this paragraph applies may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

otherwise than for the purpose of the prevention and detection of crime and the enforcement of the criminal law (whether in Gibraltar or elsewhere).

## *Offences*

### **Offences.**

58.(1) A person who contravenes any of the provisions specified in sub-paragraph (2) below shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Those provisions are paragraphs 44(9), 46(3), 47(2), 48(2) and (4), 49(3) and (5), 50(3) and (5), 53(3), 54(2), 55(2), (3), (5) and (6) and 57(2) above.

(3) It is a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable steps and exercised all due diligence to prevent the contravention.

(4) A person to whom sub-paragraph (5) below applies shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale where—

- (a) a contravention of the provisions referred to in sub-paragraph (2) above has occurred on the part of a person (“the employed person”) in the employment, or otherwise under the direction or control, of the company or other organisation in which the person to whom sub-paragraph (5) applies holds office; and
- (b) the person to whom sub-paragraph (5) below applies has failed to take the steps specified in sub-paragraph (6) below.

(5) This sub-paragraph applies to a director of a company or a person concerned with the management of an organisation.

(6) The steps referred to in sub-paragraph (4)(b) above are such steps as it would be reasonable for a person to whom sub-paragraph (5) applies to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a contravention of the provisions referred to in sub-paragraph (2) above on the part of the employed person.

#### **PART 4**

##### *Offences*

##### **Offences as to declarations.**

59. A person who—

- (a) makes a declaration of local connection or a service declaration—
  - (i) when he is not authorised to do so by paragraph 12 or 17 of Schedule 4 to the 2004 Regulations; or
  - (ii) except as permitted by paragraph 5 of Schedule 4 to the 2004 Regulations, when he knows that he is subject to a legal incapacity to vote; or

- (iii) when he knows that it contains a statement which is false; or
- (b) attests a service declaration when he knows—
  - (i) that he is not authorised to do so; or
  - (ii) that it contains a false statement as to any particulars required by paragraphs 18 of Schedule 4 to the 2004 Regulations or paragraph 19 above,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Registration officers: duty to take necessary steps.**

60.(1) The registration officer must take all steps that are necessary for the purpose of complying with his duty to maintain the register under this Act.

- (2) The steps include—
  - (a) sending more than once to any address the form to be used for the canvass;
  - (b) making on one or more occasions house to house inquiries;
  - (c) making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register;
  - (d) inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law;
  - (e) providing training to persons under his direction or control in connection with the carrying out of the duty.
- (3) Regulations made by the Government may amend subparagraph (2) by—
  - (a) varying any of the indents in that subparagraph;
  - (b) inserting any indent;
  - (c) repealing any indent.

**PART 5**

**ANONYMOUS REGISTRATION**

**Anonymous registration.**

61.(1) This paragraph applies if an application for registration in the register is made in accordance with the requirements of this Act and is accompanied by—

- (a) an application under this paragraph made in accordance with this Act (an application for an anonymous entry);
- (b) a declaration made in accordance with such requirements for the purposes of this paragraph; and
- (c) such evidence in support of the application for an anonymous entry as may be required under this Act.

(2) If the registration officer determines that the person is entitled to be registered, he must also determine whether the safety test is satisfied.

(3) If the registration officer determines that the safety test is satisfied the person's entry in the register shall, notwithstanding anything to the contrary provided for in this Act, instead contain letters in the form prescribed by the Government by regulations and his electoral number.

(4) An entry containing the matters mentioned in subparagraph (3) above is referred to in this Act as an anonymous entry.

(5) If an anonymous entry is made in respect of a person, the registration officer shall remove any other entry in the register for that person.

(6) If the registration officer does not determine that the safety test is satisfied, no entry is to be made in respect of him in the register (whether an anonymous entry or otherwise).

(7) Subparagraph (6) above does not affect—

- (a) any other entry in the register for the person;
- (b) the determination of any further application for registration which is made by the person (including an application which is treated as having been made by him by virtue of any provision of this Act).

(8) Any communication sent by a registration officer or the returning officer to a person who has an anonymous entry (“A”) must be sent in an

envelope or other form of covering so as not to disclose to any other person that A has an anonymous entry.

(9) The safety test is satisfied if the safety of the applicant for an anonymous entry or that of any other person of the same household would be at risk if the register contains the name of the applicant or his qualifying address.

(10) In this paragraph, “determines” means determines in accordance with this Act.

## **Removal of anonymous entry.**

62. If a person has an anonymous entry in a register, his entitlement to remain registered in pursuance of the application for registration mentioned in paragraph 61 terminates—

- (a) at the end of the period of 12 months beginning with the date when the entry in the register first takes effect; or
- (b) if the declaration made for the purposes of paragraph 61 is cancelled at any time before the expiry of that 12 month period, at the time when the declaration is cancelled.

## **Application of paragraph 62.**

63. Paragraph 62 above does not affect the application of any other statutory provision which has the effect that the person's entitlement to registration terminates before the expiry of the 12 month period mentioned in paragraph 62 or before the cancellation of the declaration made for the purposes of paragraph 61.

## **Termination of entitlement by virtue of paragraph 62.**

64. If a person's entitlement to remain registered terminates by virtue of paragraph 62 above, the registration officer concerned shall remove his entry from the register, unless he is entitled to remain registered with an anonymous entry in pursuance of a further application for registration accompanied by a further application under paragraph 61.

## **Anonymous registration: applications and declarations.**

65.(1) An application for an anonymous entry must state—

- (a) the applicant's full name;
- (b) his address;

- (c) the reason for the application; and
  - (d) the date of the application.
- (2) The application must be in writing and signed by the applicant.
- (3) The application must be accompanied by evidence of the nature set out in paragraph 67 or 68.
- (4) Where the evidence mentioned in subparagraph (3) relates not to the applicant, but to another person of the same household as the applicant, the application must be accompanied by evidence that that person is of that household.
- (5) The application must be accompanied by a declaration made by the applicant that—
- (a) the particulars given in accordance with subparagraph (1) are true;
  - (b) so far as he is aware, the evidence provided in pursuance of subparagraph (3) is genuine; and
  - (c) where subparagraph (4) applies—
    - (i) the person to whom the evidence relates is a person of the same household of the applicant; and
    - (ii) so far as he is aware, the evidence provided in pursuance of subparagraph (4) is genuine.
- (6) The application may give an address to which the registration officer must send correspondence, where that is different to the address given in accordance with subparagraph (1)(b).

**Anonymous registration: determination of applications by registration officer.**

66.(1) Subparagraph (2) applies where—

- (a) the registration officer determines that the applicant for an anonymous entry is entitled to be registered; and
- (b) the application for an anonymous entry is made in accordance with paragraph 65.

(2) The registration officer must determine that the safety test is satisfied (and accordingly allow the application for an anonymous entry) where he is satisfied—

- (a) that the evidence provided in support of the application in pursuance of paragraph 65(3) constitutes evidence of the nature prescribed in paragraph 67 or 68; and
- (b) in the case of an application where paragraph 65(4) applies, that the evidence provided in pursuance of that subparagraph establishes that the person in question is a person of the same household as the applicant.

**Anonymous registration: evidence consisting of relevant court orders or injunctions.**

67.(1) Evidence which meets the following conditions applies for the purposes of paragraphs 65(3) and 66(2)(a).

(2) The first condition is that the evidence is, or is a copy of, a relevant order or injunction.

(3) A relevant order or injunction is an order or injunction for the purpose of restraining a person from pursuing any conduct which amounts to harassment or molestation.

(4) The second condition is that the relevant order or injunction is made for the protection, or otherwise for the benefit, of—

- (a) the applicant for an anonymous entry; or
- (b) another person of the same household as him.

(5) The third condition is that the relevant order or injunction is in force on the day on which the application for an anonymous entry is made.

**Anonymous registration: evidence by attestation.**

68.(1) An attestation within the meaning of this paragraph applies for the purposes of paragraphs 65(3) and 66(2)(a).

(2) The attestation must—

- (a) certify that the safety of the applicant, or of another named person of the same household as him, would be at risk if the register contained the name of the applicant or his qualifying address;

- (b) state the date on which it is made; and
- (c) be in writing and signed by a qualifying officer.

(3) The attestation must state the period for which it has effect, being a period of between one and five years beginning with the date on which the attestation is made.

(4) Qualifying officer means—

- (a) the Commissioner of Police;
- (b) the Chief Executive of the Social Services Agency.

**Record of anonymous entries.**

69.(1) The registration officer must keep a record of anonymous entries.

(2) The registration officer must enter in the record each person who is entered in the register with an anonymous entry.

(3) The entry in the record must contain the following particulars—

- (a) the full name of the person to whom the entry relates;
- (c) his qualifying address;
- (d) where he has given in his application for an anonymous entry an address other than his qualifying address to which correspondence should be sent, that address;
- (e) the date on which the anonymous entry in the register took effect.

(4) Where the application of a person with an anonymous entry to vote by post is granted, the registration officer must also enter in the record the address to which the postal ballot paper should be sent as given in the application.

**Duties of registration officer and his staff in relation to record of anonymous entries.**

70.(1) This paragraph applies to—

- (a) the registration officer; and

- (b) any person appointed to assist that officer or who in the course of his employment is assigned to assist that officer in his registration duties.

(1A) Where the registration officer is also the counting officer at the EU Referendum (and in consequence has access to the record of anonymous entries without being supplied with a copy of it), this paragraph applies to—

- (a) the registration officer acting in that other capacity;
- (b) any deputy returning officer, deputy acting returning officer or deputy counting officer; and
- (c) any person appointed to assist any person mentioned in (a) or (b) or who in the course of his employment is assigned to assist any such officer in his duties in respect of the election or the EU Referendum in question.

(2) No person to whom this paragraph applies may—

- (a) supply to any person a copy of the record;
- (b) disclose information contained in it; or
- (c) make use of such information,

otherwise than in accordance with an enactment (including this Act) or the order of any court or tribunal made at any hearing or during the course of any proceedings.

(3) Nothing in subparagraph (2) applies to the supply or disclosure by a person to whom this paragraph applies to another such person in connection with his registration duties or for the purposes of the EU Referendum.

(4) The persons to whom this paragraph applies must take proper precautions for the safe custody of the record.

## **Supply of record of anonymous entries to returning and counting officers.**

71.(1) Subparagraph (2) applies whenever the registration officer supplies a copy of the full register, or any part of it, to a returning officer or counting officer.

(2) The registration officer must supply—

- (a) together with the copy of the register, a copy of the record of anonymous entries;

- (b) together with any part of the register, a copy of the record so far as it relates to that part.

(3) The registration officer may supply a copy of the record to a returning officer or counting officer at any other time.

(4) No person to whom a copy of the record has been supplied under this paragraph may—

- (a) supply a copy of the record;
- (b) disclose any information contained in it; or
- (c) make use of any such information,

other than for the purposes of the EU Referendum.

(5) Each person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

**Supply of record of anonymous entries to the security services.**

72.(1) This paragraph applies where the registration officer supplies a copy of the full register to the Royal Gibraltar Police or other security services.

(2) The registration officer must supply a copy of the record of anonymous entries together with the register.

(3) No person serving as an officer or employee in the Royal Gibraltar Police or other security services may—

- (a) supply to any person a copy of the record;
- (b) disclose any information contained in it; or
- (c) make use of any such information,

otherwise than for purposes connected with the carrying out of any of their statutory functions.

(4) Each person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

**Supply of the record of anonymous entries to police forces and other organisations.**

73.(1) The registration officer may supply a copy of the record of anonymous entries with the prior consent of the Chief Secretary, to any overseas law enforcement agency upon written request by such agency.

(2) Where information pursuant to subparagraph (1) is supplied, it is to be subject to the condition that the law enforcement agency concerned may not—

- (a) supply to any person a copy of the record;
- (b) disclose any information contained in it; or
- (c) make use of any such information,

otherwise than for the purposes specified in subparagraph (3).

(3) The purposes are—

- (a) the prevention and detection of crime and the enforcement of the criminal law;
- (b) the vetting of a relevant person for the purpose of safeguarding national security.

(4) Where information pursuant to subparagraph (1) is supplied, it is to be subject to the condition that the person supplied with a copy of the record under this paragraph must take proper precautions for its safe custody.

## **Certificate of anonymous registration.**

74.(1) Where a registration officer enters a person in the record of anonymous entries, he must issue to that person a certificate of anonymous registration.

(2) A certificate of anonymous registration must be in writing and signed by the registration officer.

(3) A certificate of anonymous registration must state—

- (a) the name, electoral number and qualifying address of the person who has the anonymous entry;
- (b) the date on which the anonymous entry took effect;
- (c) that unless a fresh application for an anonymous entry is made, the entitlement to remain registered anonymously will terminate no later than at the end of the period of 12 months

beginning with the date stated in accordance with sub-paragraph (b).

**Reminders to people with anonymous registration.**

75.(1) This paragraph applies to each person who has an anonymous entry.

(2) Subject to sub-paragraph (3), the registration officer must, during the relevant period, send to a person to whom this paragraph applies a reminder that—

- (a) his entitlement to registration will terminate at the end of the period of 12 months beginning with the date on which his entry in the register first took effect;
- (b) if he wishes to remain entered in the register after that period, he must make a fresh application for registration;
- (c) if he wishes to remain entered in the register anonymously, the application for registration must be accompanied by a fresh application for an anonymous entry.

(3) Sub-paragraph (2) does not apply where the registration officer has already received from that person a fresh application for registration accompanied by a fresh application for an anonymous entry.

(4) In this paragraph, “the relevant period” means the period beginning nine months after the date when the existing entry in a register of the person in question first takes effect, and ending ten months after that date.

**Provision of false information.**

76.(1) A person who, for any purpose connected with a registration officer’s duties under this Act provides to a registration officer any false information is guilty of an offence.

(2) In relation to a signature “false information” for the purposes of sub-paragraph (1) 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.

(3) A person does not commit an offence under sub-paragraph (1) if he does not know, and had no reason to suspect, that the information was false.

(4) Where sufficient evidence is adduced to raise an issue with respect to the defence under sub-paragraph (3), the court shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(5) A person guilty of an offence under this paragraph shall be liable on summary conviction—

- (a) to imprisonment for a term not exceeding 51 weeks; or
- (b) to a fine not exceeding level 5 on the standard scale,

or to both.

**APPENDIX**

**Form of Canvass and Form of Words about the Two Versions of the Register**

**PART I**

*Form prescribed for the purposes of paragraph 9 above*

**RETURN BY OCCUPIER AS TO RESIDENTS**

**Your right to vote**

**You can vote in European Parliamentary elections only if your name appears in the Gibraltar register of European Parliamentary electors. A new version of the register will be published following a canvass which takes place in the autumn of the year preceding a European Parliamentary election.**

**About this form**

The law requires you to give the information requested in this form. So please fill it in, sign it and return it to the electoral registration officer *as quickly as possible*.

Remember to include the names of all those living in your household who will be eligible to vote – their right to vote is important too.

**The form should include all those living in your household on [insert date]. But you need not wait until then to fill in the form.**

**If you do not return this form, your name may be left out of the new version of the register, even though it may already be included in the current one.**

With this form there are notes about who is eligible to vote and instructions on how to fill it in.

If there is anything you don't understand, or if you would like more information, contact the electoral registration officer at the address – or on the telephone number – shown on the form. He will be pleased to help.

**Checking the register**

The new register will be published as soon as practicable and you will be able to look at a copy of it at the offices of the Government of Gibraltar. If

for some reason you have been missed off the register, or your details have changed since [*insert date*] (for example, because you have changed your address) you should ask immediately to have your name added to the register or to have the register changed. The electoral registration officer will tell you what you have to do.

### **Would you prefer to vote by post?**

Anyone on the electoral register will be able to vote by post. You can have a postal vote for just one election, for all elections in a set period or for all elections indefinitely. Ask the electoral registration officer for further details.