Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2008 No. 1848 (W.177)

LOCAL GOVERNMENT, WALES

The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008

Made - - - - 9 July 2008

Coming into force in accordance with regulation 1

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon the National Assembly for Wales by section 26 of the Welsh Language Act 1993 [F1] and by sections 45, 105 and 106(1) of the Local Government Act 2000 [F2] and now vested in them [F3]:

The Welsh Ministers have consulted the Electoral Commission about these Regulations in accordance with section 45(8A) of the Local Government Act 2000.

In accordance with section 45(8B) and (8C) of that Act, the Welsh Ministers have consulted the Electoral Commission on the intelligibility of the questions which may be asked at a referendum together with the statements which precede these questions as specified in these Regulations. They have laid before the National Assembly for Wales a report stating the views expressed by the Commission in response.

In accordance with section 45(8D) of that Act, the Welsh Ministers have sought and had regard to the views of the Electoral Commission on the matter of the limitation of referendums expenses. They have laid no statement before the National Assembly for Wales in pursuance of that subsection because these Regulations accord with those views.

In accordance with section 105(6) of that Act (as applied by paragraph 34(2) of Schedule 11 to the Government of Wales Act 2006), a draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales.

F1 1993 c. 38.

F2 2000 c. 22; sections 45(8A) to (8D) were inserted by, and section 45(9) was amended by, paragraph 18 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c. 41); section 105(6) was amended by, and section 105(6A) was inserted by, paragraph 14 of Schedule 3 to the Local Government Act 2003 (c. 26).

F3 The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

Title, commencement and revocation

1.—(1) The title of these Regulations is the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008.

(2) These Regulations come into force 14 days after the day on which they are made.

(3) These Regulations apply to the holding of referendums by local authorities in Wales.

(4) The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 are revoked [F4].

F4 S.I. 2004/870 (W.85), amended by S.I. 2005/3302 (W.256).

Interpretation

2.—(1) In these Regulations—

"the 1983 Act" ("*Deddf 1983*") means the Representation of the People Act 1983 [F5];

"the 1985 Act" ("*Deddf 1985*") means the Representation of the People Act 1985 [F6];

"the 2000 Act" ("*Deddf 2000*") means the Local Government Act 2000 [F7];

"counting observer" ("*arsylwr cyfrif*") means a person appointed by a counting officer under rule 18(2) of the Local Government Act Referendums Rules;

"counting officer" ("*swyddog cyfrif*") means a person referred to in regulation 9;

"elected mayor" ("*maer etholedig*"), in relation to a local authority, means an individual elected as mayor of the local authority by the local government electors for the local authority's area in accordance with provisions made by or under Part II of the 2000 Act;

"the Elections Act" ("*Deddf yr Etholiadau*") means the Political Parties, Elections and Referendums Act 2000 [F8];

[F9] . . . . . .

"further referendum" ("*refferendwm pellach*") means a referendum held in pursuance of an order under regulation 13(3);

"the Local Government Act Referendums Rules" ("*Rheolau Refferenda'r Ddeddf Llywodraeth Leol*") means the rules set out in Schedule 3 to these Regulations;

"local government election" ("*etholiad llywodraeth leol*") must be construed in accordance with section 203(1) of the 1983 Act;

"mayoral election" ("*etholiad maerol*") must be construed in accordance with the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 [F10];

"outline fall-back proposals" ("*cynigion wrth gefn amlinellol*")—

(a) in relation to proposals under section 25 (proposals) of the 2000 Act, means an outline of the proposals that a local authority intend to implement if their proposals under section 25 are rejected in a referendum;

(b) in relation to proposals under regulation 17 (action before referendum) or regulation 19 (action following direction) of the Petitions and Directions Regulations, means an outline of the proposals that a local authority intend to implement if proposals that are to be the subject of a referendum under Part II or Part III of those Regulations are rejected in that referendum;

(c) in relation to proposals under an order under section 36 (referendum following order) of the 2000 Act, means—

(i) if the local authority are then operating executive or alternative arrangements, a summary of those arrangements;

(ii) in any other case, an outline of the proposals specified in the order that the local authority intend to implement if proposals that are to be the subject of a referendum are rejected in that referendum;

(d) in relation to proposals under regulations under section 30 (operation of different executive arrangements) or section 33 (operation of alternative arrangements) of the 2000 Act, means a summary of the local authority's existing executive arrangements or existing alternative arrangements (as the case may be);

"the Petitions and Directions Regulations" ("*Rheoliadau Deisebau a Chyfarwyddiadau*") means the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 [F11];

"petition organiser" ("*trefnydd deiseb*"), in relation to a referendum, means a person who is treated for the purposes of regulation 10(4) or (5) (formalities of petition) (as the case may be) of the Petitions and Directions Regulations, as the petition organiser of any valid petition (whether an amalgamated petition, a constituent petition or a post-announcement petition) received by the local authority by or in respect of which the referendum is held [F12];

"polling observer" ("*arsylwr pleidleisio*") means a person appointed by a counting officer under rule 18(1) of the Local Government Act Referendums Rules;

"proper officer" ("*swyddog priodol*") must be construed in accordance with section 270(3) of the Local Government Act 1972 [F13];

"proposals date" ("*dyddiad y cynigion*")—

(a) in relation to a referendum, other than a further referendum, means the date on which proposals—

(i) under section 25 of the 2000 Act which involve a form of executive for which a referendum is required,

(ii) under regulation 17 or 19 of the Petitions and Directions Regulations,

(iii) under an order under section 36 of the 2000 Act, or

(iv) under regulations under section 30 or 33 of the 2000 Act [F14],

are sent to the Welsh Ministers; and

(b) in relation to a further referendum, means the day which falls two months before the day on which the poll at the further referendum is held;

"referendum" ("*refferendwm*") means a referendum held under section 27 (referendum in case of proposals involving elected mayor) of the 2000 Act, or by virtue of regulations or an order made under any provision of Part II (arrangements with respect to executives etc.) of the 2000 Act;

"referendum period" ("*cyfnod y refferendwm*"), in relation to a referendum (including a further referendum), means the period beginning with—

(a) where the proposals date precedes the coming into force of these Regulations, the date on which these Regulations come into force;

(b) in any other case, the proposals date,

and ending on the date of the referendum;

"the Representation of the People Regulations" ("*Rheoliadau Cynrychiolaeth y Bobl*") means the Representation of the People (England and Wales) Regulations 2001 [F15];

"the RP Act 2000" ("*Deddf CB 2000*") means the Representation of the People Act 2000 [F16]; and

"voting area" ("*ardal y bleidlais*") means the area in which a referendum is held.

(2) Any reference in the following provisions of these Regulations to a section followed by a number is, unless the context otherwise requires, a reference to the section of the 2000 Act that bears that number.

F5 1983 c. 2.
F6 1985 c. 50.
F7 2000 c. 22.
F8 2000 c. 41.
F9 Words in reg. 2(1) omitted (31.1.2020) by virtue of The Elections (Wales) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/115), regs. 1, **4(2)** (as read with The European Union (Withdrawal Agreement) Act 2020 (Disapplication of the Deferral of Subordinate Legislation) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/93), reg. 2)
F10 S.I. 2007/1024.
F11 S.I. 2001/2292 (W.180) as amended by S.I.2003/398 (W.55).
F12 The definition of "petition organiser" is to be found in regulation 3 of the Petitions and Directions Regulations. As to the validity of petitions, *see* regulation 9(1) of those Regulations. As to amalgamated, constituent and post-announcement petitions, relevant definitions are to be found in regulation 3 of those Regulations.
F13 1972 c. 70.
F14 *See* the Local Authorities (Changing Executive Arrangements and Alternative Arrangements (Wales) Regulations 2004 (S.I. 2004/3158 (W.275)).
F15 S.I. 2001/341; amended by S.I. 2001/1700, 2002/1871, 2004/226, 2006/752 and 2006/2910.
F16 2000 c. 2.

The statement and the question to be asked in a referendum

3. Where the proposals in relation to which a referendum is to be held involve—

(a) a mayor and cabinet executive, the statement to precede the question ("the statement") and the question to be asked in that referendum are to be in the form set out in paragraph 1 of Schedule 1 to these Regulations;

(b) a mayor and council manager executive, the statement and the question to be asked in that referendum are to be in the form set out in paragraph 2 of that Schedule;

(c) a leader and cabinet executive, the statement and the question to be asked in that referendum are to be in the form set out in paragraph 3 of that Schedule.

Publicity and other information in connection with referendums

4.—(1) The proper officer must, as soon as practicable after the proposals date, publish in at least one newspaper circulating in the local authority's area a notice which contains—

(a) a statement that, as the case may be—

(i) proposals under section 25 involving a form of executive for which a referendum is required,

(ii) proposals under regulation 17(3) or 19(1) of the Petitions and Directions Regulations,

(iii) proposals under an order under section 36, or

(iv) proposals under regulations under section 30 or 33,

have been sent to the Welsh Ministers;

(b) a description of the main features of the proposals and of the outline fall-back proposals;

(c) a statement—

(i) that a referendum will be held,

(ii) of the date on which the referendum will be held,

(iii) of the question to be asked in the referendum,

(iv) that the referendum will be conducted in accordance with procedures similar to those used at local government elections,

(v) of the referendum expenses limit (as defined in regulation 6(1)) that will apply in relation to the referendum and the number of local government electors by reference to which that limit has been calculated,

(vi) of the address and times at which a copy of the proposals, and of the local authority's outline fall-back proposals, may be inspected, and

(vii) of the procedures for obtaining a copy of the proposals and outline fall-back proposals.

(2) Unless the notice required to be published by paragraph (1) ("the first notice") is published fewer than 56 days before the date of the referendum, the proper officer must publish a second notice containing the particulars specified in paragraph (1)(c)(i) to (vii).

(3) The second notice is to be published—

(a) in the same newspaper or newspapers as were used for the publication of the first notice, and

(b) no more than 55 days and no less than 28 days before the date of the referendum.

(4) The local authority must make available for inspection throughout the referendum period, at the address and times stated in the notice, and free of charge, a copy of their proposals and outline fall-back proposals, and must secure that sufficient copies are available for persons who wish to obtain copies.

(5) The local authority may provide (whether or not in pursuance of any duty to do so) any other factual information relating to the proposals, the outline fall-back proposals or the referendum so far as it is presented fairly.

(6) In determining for the purposes of paragraph (5) whether any information is presented fairly, regard is, in accordance with section 38, to be had to any guidance for the time being issued by the Welsh Ministers under section 38.

Restriction on publication etc. of promotional material

5.—(1) This regulation applies to any material which—

(a) provides general information about the referendum,

(b) deals with any of the issues raised by the question to be asked in the referendum, or

(c) puts any arguments for or against a particular answer to that question.

(2) No material to which this regulation applies is to be published by or on behalf of a local authority during the period of 28 days ending with the date of the poll at the referendum.

(3) Paragraph (2) does not apply to—

(a) material made available to persons in response to specific requests for information or to persons specifically seeking access to it,

(b) the publication of information relating to the holding of the poll at the referendum, or