WELSH STATUTORY INSTRUMENTS

2004 No. 870 (W.85)

LOCAL GOVERNMENT, WALES

The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004

Made - - - -	*23rd March 2004*
Coming into force - -	*24th March 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by section 26 of the Welsh Language Act 1993(**1**) and sections 13(3), 45 and 105 of the Local Government Act 2000(**2**), having consulted the Electoral Commission pursuant to section 45(8A) to (8D) of that Act and having satisfied the requirements as to laying in section 45(8B) and (8D), makes the following Regulations:

Name, commencement and application

1.—(1) These Regulations are called The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 and shall come into force on 24th March 2004.

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

Interpretation

2.—(1) In these Regulations, and in any provision as applied by these Regulations —

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

"the Elections Act" ("*Deddf yr Etholiadau*") means the Political Parties, Elections and Referendums Act 2000(**3**);

"the RP Act 2000" ("*Deddf CB*") means the Representation of the People Act 2000(**4**);

"the 1985 Act" ("*Deddf 1985*") means the Representation of the People Act 1985(**5**);

"the 1983 Act" ("*Deddf 1983*") means the Representation of the People Act 1983(**6**);

(**1**) 1993 c. 38.
(**2**) 2000 c. 22. For the application of that Act to Wales, *see* section 106. Section 45 is amended by the Political Parties, Elections and Referendums Act 2000 (c. 41), section 158(1), Schedule 21, paragraph 18.
(**3**) 2000 c. 41.
(**4**) 2000 c. 2.
(**5**) 1985 c. 50.
(**6**) 1983 c. 2.

"the Elections Regulations" ("*Rheoliadau Etholiadau*") means the Representation of the People (England and Wales) Regulations 2001(**7**);

"the LGA Referendum Rules" ("*Rheoliadau Refferendwm LGA*") means so much of the Principal Areas Rules as are applied, with or without modification(**8**), in relation to a referendum by regulation 8 of these Regulations;

"the National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"the Parliamentary Elections Rules" ("*Rheoliadau Etholiadau Seneddol*") means the rules set out in Schedule 1 to the 1983 Act;

"the Petitions and Directions Regulations" ("*Rheoliadau Deisebau a Chyfarwyddiadau*") means the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001(**9**);

"the Principal Areas Rules" ("*Rheolau'r Prif Ardaloedd*") means the Local Elections (Principal Areas) Rules 1986(**10**);

"counting observer" ("*arsylwr cyfrif*") means a person appointed by a counting officer under regulation 13(1)(b);

"counting officer" ("*swyddog cyfrif*") means a person referred to in regulation 11(1);

"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;

"further referendum" ("*refferendwm pellach*") means a referendum held in pursuance of an order under regulation 17(3);

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

(a) 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;

(b) 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 are to implement if proposals that are to be the subject of a referendum are rejected in that referendum;

"petition organiser" ("*trefnydd deiseb*"), in relation to a referendum, means a person who is treated for the purposes of paragraph (4) or, as the case may be, paragraph (5) of regulation 10 (formalities of petition) 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(**11**);

(**7**) S.I.2001/341, amended by S.I. 2001/1149, 2001/1700, 2002/881, 2002/1871, 2003/1899.
(**8**) *See*, in particular, Table 3 in Schedule 3.
(**9**) S.I. 2001/2292 (W.180) as amended by S.I. 2003/398 (W.55).
(**10**) S.I. 1986/2214; amended by S.I. 1987/261, 1990/158, 1995/1948, 1998/578, 2000/247, 2001/81 and 2002/185.
(**11**) S.I. 2001/2292 as amended by S.I. 2003/398. 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.

"polling observer" ("*arsylwr y pôl*") means a person appointed by a counting officer under regulation 11(3);

"proper officer" ("*swyddog priodol*") has the meaning given by section 270(3) of the Local Government Act 1972(**12**);

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

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

(i) under regulation 17 or 19 of the Petitions and Directions Regulations; or

(ii) under an order under section 36 of the 2000 Act

are sent to the National Assembly; and

(b) in relation to a further referendum, means the day which falls 2 months before the day on which the further referendum is held;

"referendum" ("*refferendwm*") means a referendum held 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; 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.

The statement and the question to be asked in a referendum

3.—(1) Where the proposals in relation to which a referendum is to be held involve a mayor and cabinet executive(**13**), the statement to precede the question ("the statement") and the question to be asked in that referendum shall be in the form set out in paragraph 1 of Part I of Schedule 1 to these Regulations.

(2) Where the proposals in relation to which a referendum is to be held involve a mayor and council manager executive(**14**), the statement and the question to be asked in that referendum shall be in the form set out in paragraph 2 of Part I of Schedule 1.

(3) Where the proposals in relation to which a referendum is to be held involve a leader and cabinet executive(**15**), the statement and the question to be asked in that referendum shall be in the form set out in paragraph 3 of Part I of Schedule 1.

Publicity and other information in connection with referendums

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

(**12**) 1972 c. 70.
(**13**) *See* section 11(2) of the Local Government Act 2000.
(**14**) *See* section 11(4) of the Local Government Act 2000.
(**15**) *See* section 11(3) of the Local Government Act 2000.

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

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

(ii) proposals under an order under section 36,

have been sent to the National Assembly;

(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) where the local authority have made a determination under regulation 10(1), that the votes in the referendum may be cast only by postal ballot,

(v) where no such determination has been made, that save for extended hours of polling the referendum will be conducted in accordance with procedures similar to those used at local government elections,

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

(vii) 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

(viii) 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 less than 56 days before the date of the referendum, the proper officer shall publish a second notice containing the particulars specified in paragraphs (i) to (viii) of sub-paragraph (c) of paragraph (1).

(3) The second notice shall be published —

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

(b) not more than 55 days before the date of the referendum and not less than 28 days before that date.

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

(5) The 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 and 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 shall, in accordance with section 38, be had to any guidance for the time being issued by the National Assembly 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) Subject to paragraph (3), no material to which this regulation applies shall 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

(c) the publication of press notices containing factual information where the sole purpose of publication is to refute or correct any inaccuracy in material published by a person other than the local authority.

(4) In this regulation "publish" means make available to the public at large, or to any section of the public, in whatever form and by whatever means (including, in particular, by inclusion in any programme included in a programme service within the meaning of the Broadcasting Act 1990(**16**)); and "publication" shall be construed accordingly.

General restriction on referendum expenses

6.—(1) In this regulation and regulation 7 —

"campaign organiser" ("*trefnydd yr ymgyrch*") means the individual or body by whom, or on whose behalf, referendum expenses are incurred (including expenses treated as incurred) in connection with a referendum campaign;

"referendum campaign" ("*ymgyrch refferendwm*") means a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum;

"referendum expenses" ("*treuliau refferendwm*") means expenses incurred by or on behalf of any individual or body during the referendum period for referendum purposes in respect of any of the matters set out in paragraph 1 of Schedule 2 to these Regulations, as read with paragraph 2 of that Schedule;

"referendum expenses limit" ("*cyfyngiadau treuliau'r refferendwm*") means the aggregate of £2,000 and such amount as is found by multiplying by five pence the number of entries in the relevant register;

"for referendum purposes" ("*at ddibenion y refferendwm*") means —

(a) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to the question asked in the referendum; or

(b) otherwise in connection with promoting or procuring any such outcome; and

"the relevant register" ("*y gofrestr berthnasol*") means the register (or registers) of local government electors published under section 13 (publication of registers) of the 1983 Act (as substituted) after the conclusion of the canvass conducted under section 10 of that Act in the year immediately preceding that in which the referendum is held, which has (or have) effect in the area of the local authority by which, or as regards which, the referendum is held (whether or not the persons to whom those entries relate are entitled to vote in the referendum).

(2) The total referendum expenses incurred or, in accordance with regulation 7, treated as incurred, by or on behalf of any individual or body shall not exceed the referendum expenses limit.

(**16**) 1990 c. 42. The definition of "programme service" is to be found in section 201.