Draft Regulations laid before Parliament under section 333A of the Town and Country Planning Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. XXXX

TOWN AND COUNTRY PLANNING, ENGLAND

The Neighbourhood Planning (Referendums) (Amendment) Regulations 2013

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraphs 15(5) and 16 of Schedule 4B to the Town and Country Planning Act 1990(**1**) and section 38A(3) of the Planning and Compulsory Purchase Act 2004(**2**).

In accordance with paragraph 16(5) of that Schedule, the Secretary of State has consulted the Electoral Commission on these Regulations.

In accordance with section 333(3A) of that Act, a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Neighbourhood Planning (Referendums) (Amendment) Regulations 2013 and come into force on the day after the day on which they are made.

Amendment of the Neighbourhood Planning (Referendums) Regulations 2012

2. The Neighbourhood Planning (Referendums) Regulations 2012(**3**) are amended in accordance with regulations 3 to 8 below.

Interpretation

3. In regulation 2 (interpretation)—

(a) after the definition of "the 2004 Act" insert—

(**1**) 1990 c.8. Schedule 4B was inserted into the 1990 Act by sections 116 and 121 of, and Schedule 10 to, the Localism Act 2011 (c.20). Section 333(3A) of the 1990 Act was inserted by paragraph 22(3) of Schedule 12 to the Localism Act 2011.

(**2**) 2004 c.5. Section 38A of the 2004 Act, inserted by paragraph 7 of Schedule 9 to the Localism Act 2011, applies Schedule 4B to the 1990 Act to neighbourhood plans, subject to the modifications set out in section 38C(5).

(**3**) S.I. 2012/2031.

""business referendum" means the additional referendum referred to in paragraph 15 of Schedule 4B to the 1990 Act;" and

(b) after the definition of "relevant election" insert—

""residential referendum" means the referendum referred to in paragraph 14(2) of Schedule 4B to the 1990 Act."

Information to be made available in relation to referendums

4.—(1) Regulation 4 (information to be made available in relation to referendums) is amended as follows.

(2) In paragraph (1)—

(a) omit the words before "proper officer", and

(b) after sub-paragraph (b) insert—

"; and

(c) where regulation 17 applies, and subject to paragraph (3A), made available during the referendum period in such other manner if any as the proper officer considers necessary to bring them to the attention of persons likely to be entitled to vote in the business referendum.".

(3) After paragraph (1) insert—

"(1A) The information statement and the specified documents must be published in accordance with paragraph (1)(a) not fewer than—

(a) where regulation 17 applies, 56 days before the date on which the referendums will be held (subject to paragraph 3A)); or

(b) in any other case, 28 days before the date on which the referendum will be held.

(1B) Where regulation 17 applies (and subject to paragraph (3B)), the information statement and specified documents must be published on the same date in respect of each of the referendums.".

(4) In paragraph (3)(a)(i) at the end insert "and, where regulation 17 applies, that two referendums will be held on the same date one of which is a business referendum;".

(5) In paragraph (3)(a)(ii) after "the date on which the referendum" insert "or referendums".

(6) In paragraph (3)(a)(iii) after "the question to be asked in the referendum" insert "or referendums".

(7) For paragraph (3)(a)(vii) to (ix) substitute—

"(vi) a description of persons entitled to vote in the referendum and, where regulation 17 applies, each of the referendums;

(vii) the referendum expenses limit that will apply in relation to the referendum or, where regulation 17 applies, as the overall limit for both referendums, and the number of persons by reference to which that limit has been calculated;

(viii) that the referendum or referendums will be conducted in accordance with procedures similar to those used at local government elections; and

(ix) the address and times at which a copy of the specified documents can be inspected, including, where regulation 17 applies, the specified documents relating to the business referendum; and";

(8) After paragraph (3) insert—

"(3A) Where regulation 17 applies, the referendum expenses limit in paragraph (3)(a)(vii) shall be published and made available in accordance with paragraph (1) as soon as practicable after the initial registration list is received by the business registration officer.

(3B) Where regulation 17 applies, this regulation does not require publication or making available of more than one statement, nor of the same document more than once, except in so far as is necessary to bring the information set out in paragraph (3) in respect of both referendums to the attention of persons entitled to vote in either of the referendums.

(3C) In this regulation "referendum expenses limit" has the same meaning as in regulation 6(1)."

(9) In paragraph (4) omit the words "of 28 days".

General restriction on referendum expenses

5.—(1) In regulation 6 (general restriction on referendum expenses) after the definition of "campaign organiser" insert—

""initial registration list" means the information provided by a billing authority to a business registration officer in accordance with paragraph 13 of Schedule 6 and includes any corrections or alterations made to it in accordance with the provisions of that Schedule;"

(2) In the definition of "referendum expenses limit" from the words "where N" to the end of the definition substitute—

"where N is—

(a) if regulation 17 does not apply, the number of entries in the relevant register;

(b) if regulation 17 applies, the sum of the number of entries in the relevant register and the number of rate-payers on the initial registration list;"".

Conduct of referendums and combination of polls

6.—(1) In regulation 8(1) (conduct of referendum: poll at referendum not taken together with the poll at a relevant election), after the words "in relation to the" insert "residential".

(2) For regulation 11(1) (combination of polls: general), substitute—

"(1) Where the poll at a residential referendum would be taken on a day that falls within the period beginning 28 days before the day on which the poll is to be taken at a relevant election—

(a) the poll at the referendum (or at both the residential referendum and the business referendum, where an additional referendum is required to be held in accordance with paragraph 12(4) of Schedule 4B to the 1990 Act) may be taken on the day on which the poll is to be taken at the relevant election; and

(b) the poll at the residential referendum may be taken together with the poll at the relevant election if the returning officer or counting officer for the relevant election and the counting officer for the referendum think fit."

(3) For regulation 11(2) (combination of polls: general) substitute—

"(2) Where the poll at a residential referendum would be taken on a day that falls within the period beginning 28 days before the day on which the poll is to be taken at another residential referendum—

(a) the poll at the referendum (or at both the residential referendum and the business referendum, where an additional referendum is required to be held in accordance with paragraph 12(4) of Schedule 4B to the 1990 Act) may be taken on the day on which the poll is to be taken at the other residential referendum; and

(b) the poll at both the residential referendums may be taken together if the counting officer thinks fit."

(4) In regulation 12(1) (combination of polls: conduct of referendum) for the words "in relation to the referendum" substitute "in relation to a residential referendum".

Business referendums

7.—(1) After regulation 16 (referendums not arranged by the local planning authority), insert—

"**Business referendums**

17.—(1) This regulation applies where a business referendum is required to be held.

(2) The business referendum must be held on the same date as the corresponding residential referendum.

(3) Schedule 6 is to have effect.

(4) The poll at the business referendum is to be conducted in accordance with the Neighbourhood Planning Business Referendums Rules as set out in Schedule 7.

(5) The provisions mentioned in the Tables in Schedule 8 have effect in relation to the business referendum subject to—

(a) unless the context otherwise requires the general modifications specified in paragraph (6), and

(b) the modifications specified in those Tables.

(6) The general modifications are—

(a) a reference to an election must be construed as a reference the business referendum;

(b) a reference to a returning officer must be construed as a reference to the counting officer;

(c) a reference to a register or a register of parliamentary or local government electors must be construed as a reference to the business voting register;

(d) a reference to a constituency, an electoral division or a ward, or a reference to a voting area must be construed as a reference to the referendum area;

(e) a reference to any local authority by or in respect of which an election is held must be construed as a reference to the relevant council;

(f) a reference to voting for, or a vote for, a candidate must be construed as a reference to voting for, or a vote for, an answer;

(g) a reference to promoting or procuring the election of a candidate, or furthering a person's candidature, must be construed as a reference to promoting or procuring a particular result in the business referendum;

(h) a reference to the return of a person must be construed as a reference to a particular result in the business referendum;

(i) a reference to an elector or a proxy must be construed as a reference to a business vote holder or a named voter;

(j) where anything is required to be done in the presence of election, polling, counting or other agents, the reference to the presence of agents is ignored;

(k) a reference to anything having been prescribed must be construed as a reference to its being provided for by a provision of subordinate legislation applied by these Regulations;

(l) a form which is required to be used may be used with such variations as the circumstances require;

(m) a reference to the registration officer, in relation to a district, London borough, the Common Council of the City of London or the Isles of Scilly, is a reference to the business registration officer;

(n) any reference to an enactment or instrument made under an enactment must be construed as a reference to that enactment or instrument as applied by these Regulations;

(o) so much of any provision as applies to an election petition is ignored;

(p) so much of any provision as applies only in Scotland, Wales or Northern Ireland is ignored.

(7) In this regulation—

"business voting register" has the same meaning as in Schedule 6;

"corresponding residential referendum" has the same meaning as in Schedule 7."

(2) After Schedule 5 (Combination of Polls) Rules insert new Schedules 6, 7 and 8 as set out in Schedules 1, 2 and 3 to these Regulations.

Residential referendums

8.—(1) In Schedule 3 (neighbourhood planning referendums rules) —

(a) in rule 46(1) after "by a county court" insert "or the High Court", and after "an offence in relation to ballot papers" insert "or for the purpose of proceedings brought as mentioned in section 61N(3) of the 1990 Act(**4**)"; and

(b) omit rule 46(2).

(2) In Schedule 5 (neighbourhood planning referendums (combination of polls) rules) —

(a) in rule 46(1) after "by a county court" insert "or the High Court", and after "an offence in relation to ballot papers" insert "or for the purpose of proceedings brought as mentioned in section 61N(3) of the 1990 Act"; and

(b) omit rule 46(2).

Signed by authority of the Secretary of State for Communities and Local Government

Parliamentary Under-Secretary of State
Department for Communities and Local Government

Date

(**4**) Section 61N was inserted into the Town and Country Planning Act 1990 by Section 116 of and paragraph 2 of Schedule 9 to the Localism Act 2011 (c. 20).