Draft Regulations laid before Parliament under section 105 of the Local Government Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. XXXX

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Conduct of Referendums)(England) Regulations 2012

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9MG and 105 of the Local Government Act 2000(**1**).

In accordance with section 9MG(6) of that Act, the Secretary of State has consulted the Electoral Commission on the questions to be asked at a referendum as specified in these Regulations.

In accordance with section 105(6) 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 Local Authorities (Conduct of Referendums)(England) Regulations 2012 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"the 1972 Act" means the Local Government Act 1972(**2**);

"the 1983 Act" means the Representation of the People Act 1983(**3**);

"the 1985 Act" means the Representation of the People Act 1985(**4**);

"the 2000 Act" means the Local Government Act 2000(**5**);

(**1**) 2000 c.22. Part 1A was inserted into the Local Government Act 2000 by Schedule 2 to the Localism Act 2011 (c.20). Section 105 was amended by paragraph 70 of Schedule 3 to the Localism Act 2011.
(**2**) 1972 c.70.
(**3**) 1983 c.2.
(**4**) 1985 c.50.
(**5**) 2000 c.22.

"the 2011 Act" means the Police Reform and Social Responsibility Act 2011(**6**);

"the Petitions Regulations" means the Local Authorities (Referendums)(Petitions)(England) Regulations 2011(**7**);

"the Representation of the People Regulations" means the Representation of the People (England and Wales) Regulations 2001(**8**);

"the Combination of Polls Regulations" means the Representation of the People (Combination of Polls)(England and Wales) Regulations 2004(**9**);

"the Local Government Act Referendums Rules" means the rules set out in Schedule 3 to these Regulations;

"the Local Government Act Referendums (Combination of Polls) Rules" means the rules set out in Schedule 5 to these Regulations;

"counting observer" means a person appointed by a counting officer under rule 18(2) of the Local Government Act Referendums Rules or rule 18(1) of the Local Government Act Referendums (Combination of Polls) Rules (as the case may be);

"counting officer" means a person referred to in regulation 9;

"elected mayor", in relation to a local authority, means an individual elected as mayor of the authority by local government electors for the authority's area in accordance with provisions made by or under Part 1A of the 2000 Act;

"European Parliamentary election" and "European Parliamentary general election" must be construed in accordance with section 27(1) of the 1985 Act(**10**);

"further referendum" means a referendum held in pursuance of an order under regulation 17(5);

"local government election" must be construed in accordance with section 203(1) of the 1983 Act(**11**);

"mayoral election" must be construed in accordance with the Local Authorities (Mayoral Elections)(England and Wales) Regulations 2007(**12**);

"notification date"—

(a) in relation to a referendum, means the date on which the notice required to be published by regulation 4(1) is published;

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

"petition organiser", in relation to a referendum, means a person who is treated for the purpose of regulation 10(4) or (5) (formalities of petition) as the case may be of the Petitions 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 a referendum is held;

"police area" must be construed in accordance with section 102 of the 2011 Act;

"police and crime commissioner" means an individual elected as a police and crime commissioner by relevant electors within the police area in accordance with provisions made by or under Chapter 6 of Part 1 of the 2011 Act;

(**6**) 2011 c.13.
(**7**) S.I. 2011/XXX
(**8**) S.I. 2001/ 341; amended by SI 2001/1700, 2002/1871, 2004/226, 2006/752 and 2006/2910.
(**9**) S.I. 2004/294; amended by SI 2006/3278.
(**10**) 1985 c.50; the definitions were amended by section 3 of the European Communities (Amendment) Act 1986 (c.58) in consequence of the European Assembly being renamed the European Parliament.
(**11**) 1983 c.2; the definition of "local government election" was amended by paragraph 39 of Schedule 17 to the Greater London Authority Act 1999 (c.29).
(**12**) S.I. 2007/1024.

"police and crime commissioner election" must be construed in accordance with provision made by or under section 50 or 51 of the 2011 Act;

"polling observer" means a person appointed by a counting officer under rule 18(1) of the Local Government Act Referendums Rules or rule 19(1) of the Local Government Act Referendums (Combination of Polls) Rules (as the case may be);

"proper officer" must be construed in accordance with section 270(3) of the 1972 Act;

"referendum" means a referendum held under section 9M (cases in which change is subject to approval in a referendum etc) of the 2000 Act, or by virtue of regulations or order made under any provision of Part 1A (arrangements with respect to local authority governance in England) of that Act;

"referendum period", in relation to a referendum (including a further referendum), means the period beginning with the notification date and ending on the date of the referendum;

"referendum petition" means the petition by which a referendum may be questioned in accordance with regulation 15;

"relevant election or referendum" means one or more of the following—

(a) another referendum (including a further referendum);

(b) a Parliamentary election;

(c) a European Parliamentary election;

(d) a local government election;

(e) a mayoral election;

(f) a police and crime commissioner election,

the poll at which is taken together with the poll at the referendum;

"voting area" 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.

Question to be asked in a referendum

3. Where the proposals in relation to which a referendum is to be held are for the authority to operate—

(a) a mayor and cabinet executive, the question to be asked in that referendum is to be in the form set out—

(i) where the authority is currently operating a leader and cabinet executive (England), in paragraph 1 of Schedule 1 to these Regulations; and

(ii) where the authority is currently operating the committee system, in paragraph 2 of Schedule 1 to these Regulations; and

(b) a leader and cabinet executive (England), the question to be asked in that referendum is to be in the form set out—

(i) where the authority is currently operating a mayor and cabinet executive, in paragraph 3 of Schedule 1 to these Regulations; and

(ii) where the authority is currently operating the committee system in paragraph 4 of Schedule 1 to these Regulations; and

(c) the committee system, the question to be asked in that referendum is to be in the form set out—

(i) where the authority is currently operating a mayor and cabinet executive, in paragraph 5 of Schedule 1 to these Regulations; and

(ii) where the authority is currently operating a leader and cabinet executive (England), in paragraph 6 of Schedule 1 to these Regulations.

Publicity and other information in connection with referendums

4.—(1) Subject to paragraph (2), the proper officer must, not fewer than 56 days before the date on which the referendum will be held in accordance with sub-paragraph (c)(ii) below, publish in such a manner as he or she considers likely to bring to the attention of persons who live in the local authority area a notice which contains—

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

(i) proposals under section 9MA (Referendum: proposals by local authority); or

(ii) proposals under regulation 17(2) of the Petitions Regulations; or

(iii) any proposals required under an order under section 9ME or 9N,

have been drawn up;

(b) a description of the main features of any proposals;

(c) a statement—

(i) that a referendum will be held;

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

(iii) in a case to which regulation 10(1) or (5) applies, that the poll in the referendum will be taken together with the poll or polls in an election or elections of a description which is to be specified in the statement;

(iv) of the question to be asked in the referendum;

(v) that 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 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 any proposals may be inspected;

(viii) of the procedures for obtaining a copy of any proposals; and

(ix) if the proper officer then knows that the poll in the referendum (whether or not it is to be taken together with the poll in an election) will be taken together with the poll in a referendum for another area, that the polls will be taken together for the two (or more) areas, which are to be specified in the statement.

(2) At least 14 days before the day on which the proper officer of an authority publishes a notice in accordance with paragraph (1) that proper officer must, by notice in writing, advise—

(a) if that person is the proper officer of a county council, the proper officer of the council of each district comprised in the county;

(b) if that person is the proper officer of a district council comprised in an area for which there is a county council, the proper officer of—

(i) the council of the county in which the district lies; and

(ii) each of the district councils in that county,

that that person intends to publish a notice under paragraph (1) and the date of the referendum to be held in the area.

(3) It is the duty of each proper officer—

(a) to whom notice has been given under paragraph (2); and

(b) whose council are considering the holding of a referendum in their area,

to consider whether it would be practicable to combine that referendum with the one of which such notice has been given; and each such officer must reply to the notice within seven days of its receipt, indicating whether that proper officer's authority wish to combine their referendum with that to which the notice refers.

(4) Unless the notice required to be published by paragraph (1) ("the first notice") is published fewer than 74 days before the date of the referendum, the proper officer must publish a second notice containing the particulars specified in paragraph (1)(c)(i)-(viii) and, if paragraph (1)(c)(ix) applies (whether or not it applied in relation to the first notice, if any), the particulars specified in that paragraph.

(5) The second notice is to be published—

(a) in the same manner as was used for the publication of the first notice; and

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

(6) The 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 any proposals, and must secure that sufficient copies are available for persons who wish to obtain copies.

(7) The authority may provide (whether or not in pursuance of any duty to do so) any other factual information relating to any proposals or the referendum so far as it is presented fairly.

(8) In determining for the purposes of paragraph (7) whether any information is presented fairly, regard is, in accordance with section 9Q, to be had to any guidance for the time being issued by the Secretary of State under that section.

(9) The date on which the notice required to be published by paragraph (1) is published is "the notification date".

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

(c) the publication of press notices containing factual information where the sole purpose of the 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