Draft Regulations laid before Parliament under section 333(3A) of the Town and Country Planning Act 1990, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. XXXX

TOWN AND COUNTRY PLANNING, ENGLAND

The Neighbourhood Planning (Referendums) 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 paragraph 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) Regulations 2012 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

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

"the 1990 Act" means the Town and Country Planning Act 1990;

"the 2004 Act" means the Planning and Compulsory Purchase Act 2004;

(**1**) 1990 c.8. Schedule 4B was inserted into the 1990 Act by section 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). By virtue of paragraph 7 of Schedule 4C to the 1990 Act, inserted by Schedule 11 to the Localism Act 2011, Schedule 4B has effect in relation to community right to build orders subject to the modifications set out in paragraphs 8 to 10 of Schedule 4C.

(**3**) 1983 c. 2.

"counting observer" means the person appointed to that position under rule 19 of the Neighbourhood Planning Referendums Rules or rule 19 of the Neighbourhood Planning Referendums (Combination of Polls) Rules;

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

"electoral area" has the meaning given in section 203(1) of the 1983 Act(**4**);

"European Parliamentary election" must be construed in accordance with section 27(1) of the Representation of the People Act 1985(**5**)

"GLA election" means the election of a Mayor of London or a member of the London Assembly in accordance with Part 1 of the Greater London Authority Act 1999(**6**);

"local government election" means the election of a councillor for any electoral area;

"local referendum" means—

(a) a referendum under Part 1A of the Local Government Act 2000 (local authority governance in England);

(b) a referendum under Chapter 4ZA of Part 1 of the Local Government Finance Act 1992 (council tax increases);

"mayoral election" means the election for the return of an elected mayor as defined by section 9H of the Local Government Act 2000(**7**);

"neighbourhood plan" means a neighbourhood development plan as defined in section 38A of the 2004 Act;

"police and crime commissioner election" means the election of a police and crime commissioner in accordance with Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011(**8**);

"polling observer" means the person appointed to that position under rule 19 of the Neighbourhood Planning Referendums Rules or rule 19 of the Neighbourhood Planning Referendums (Combination of Polls) Rules;

"proper officer" must be construed in accordance with section 270(3) of the Local Government Act 1972(**9**);

"referendum", except in the definition "local referendum", means a referendum required to be held as a result of paragraph 12(4) of Schedule 4B, or paragraph 10(3) of Schedule 4C, to the 1990 Act;

"referendum period" means the period beginning with the date on which the information statement and documents required to be published by regulation 4(1) are published and ending on the date on which the referendum is held; and

"relevant election" means—

(a) a Parliamentary election;

(b) a European Parliamentary election;

(c) a GLA election;

(d) a local government election;

(e) a local referendum;

(**4**) 1983 c.2. The definition of "electoral area" was substituted by paragraph 71 of Schedule 4 to the Representation of the People Act 1985 (c.50) and amended by paragraph 39 of Schedule 3 to the Greater London Authority Act 1999 (c.29).
(**5**) 1985 c.50. The definition was amended by section 3 of the European Communities (Amendment) Act 1986 (c.58).
(**6**) 1999 c.29.
(**7**) 2000 c.22. Section 9H was inserted by section 21 of the Localism Act 2011 (c.20).
(**8**) 2011 c.13.
(**9**) 1972 c.70.

(f) a mayoral election;

(g) a police and crime commissioner election.

(2) A reference in these Regulations to a neighbourhood development order includes a community right to build order except in so far as the contrary intention appears(**10**).

Question to be asked in a referendum

3. The question to be asked in the referendum is, where the proposal in relation to which the referendum is to be held is—

(a) a neighbourhood plan, the question set out in paragraph 1 of Schedule 1;

(b) a neighbourhood development order, other than a community right to build order, the question set out in paragraph 2 of Schedule 1;

(c) a community right to build order, the question set out in paragraph 3 of Schedule 1.

Information to be made available in relation to referendums

4.—(1) Not fewer than 28 days before the date on which the referendum will be held, the proper officer of the relevant council(**11**) must ensure the information statement and the specified documents are—

(a) published on the website of the relevant council; and

(b) made available during the referendum period for inspection—

(i) at the principal offices of the relevant council; and

(ii) where the relevant council controls any premises which are open to the public in the referendum area, at such of those premises as the council considers appropriate having regard to the desirability of ensuring a geographical distribution of premises where the statement and documents are made available, provided that in all cases they are available at least at one such premises.

(2) The information statement and the specified documents published in accordance with paragraph (1) must, as far as reasonably practicable, remain available throughout the referendum period in the form in which they were originally published.

(3) For the purposes of this regulation—

(a) "the information statement" is a statement that specifies—

(i) that a referendum will be held;

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

(iii) the question to be asked in the referendum;

(iv) a map of the referendum area;

(v) where the referendum area is not identical to the neighbourhood area, a map of the neighbourhood area;

(vi) a description of persons entitled to vote in the referendum;

(vii) the referendum expenses limit that will apply in relation to the referendum and the number of persons entitled to vote by reference to which that limit has been calculated;

(**10**) "Neighbourhood development order" is defined in section 61E of the 1990 and "community right to build order is defined in section 61Q of, and Schedule 4C to, the 1990 Act (sections 61E and G were inserted by paragraph 2 of Schedule 9, and Schedule 4C was inserted by Schedule 11 to the Localism Act 2011 (c.20)).

(**11**) "Relevant council" is defined in paragraph 14(3) of Schedule 4B to the 1990 Act.

(viii) that the referendum 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; and

(b) "the specified documents" are—

(i) the draft neighbourhood plan or neighbourhood development order;

(ii) the report made by the independent examiner under paragraph 10 of Schedule 4B to the 1990 (in the case of a neighbourhood plan, as applied by section 38A(3) of the 2004 Act);

(iii) a summary of any representations submitted to the independent examiner pursuant to paragraph 9 of Schedule 4B to the 1990 Act;

(iv) a statement—

(aa) in the case of a draft neighbourhood development order (excluding a community right to build order), that the local planning authority are satisfied the order meets the basic conditions mentioned in paragraph 8(2) of Schedule 4B to the 1990 Act and complies with the provision made by or under sections 61E(2), 61J and 61L of that Act, or

(bb) in the case of a draft neighbourhood plan, that the local planning authority are satisfied the draft plan meets those basic conditions and complies with the provision made by or under sections 38A and 38B of the 2004 Act; or

(cc) in the case of a community right to build order, that the independent examiner has recommended that the draft order is submitted to a referendum under paragraph 10(3) of Schedule 4C to that Act;

(v) a statement that sets out general information as to town and country planning (including neighbourhood planning) and the referendum, which is prepared having regard to any guidance issued by the Secretary of State; and

(vi) in the case of a community right to build order, a statement that sets out details of any enfranchisement right(**12**) which are not to be exercisable in relation to land the development of which is to be authorised by the draft order, and the properties, or types of properties, in relation to which, the qualifying body proposes that right is not exercisable.

(4) The days mentioned in paragraph (5) are to be disregarded in calculating the period of 28 days referred to in paragraph (1).

(5) The days mentioned in this paragraph are—

(a) a Saturday or Sunday,

(b) Christmas Eve, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England, and

(c) any day appointed as a day of public thanksgiving or mourning in England.

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

(**12**) *See* paragraph 11(2) of Schedule 4C to the 1990 Act and regulation 28 of S.I. 2012/637.

(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) the relevant council, or

(b) the local planning authority for the referendum area, where that is not the relevant council,

during the referendum period.

(3) Paragraph (2) does not apply to—

(a) material required to be published under regulation 4, or

(b) 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 relevant council.

(4) In this regulation "publish" means make available to the public, 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)(**13**); and "publication" is to be construed accordingly.

General restriction on referendum expenses

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

"campaign organiser" means an 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" 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" means the 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 paragraphs 1 to 7 of Schedule 2, as read in accordance with paragraph 8 of that Schedule;

"referendum expenses limit" is calculated using the formula—

$$£2,362 + (0.059xN)$$

where N is number of entries in the relevant register;

"for referendum purposes" means—

(a) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular result in the referendum, or

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

"relevant register" means the part or parts of the register or registers of local government electors published under section 13 of the 1983 Act(**14**) 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 respect of the referendum area (whether or not the persons to whom these 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, a campaign organiser must not exceed the referendum expenses limit.

(**13**) 1990 c.42. Section 201, which contains the definition of programme service, was amended by section 360 of and Schedule 19 to the Communications Act 2003 (c. 21).

(**14**) 1983 c.2; section 10 was substituted by paragraph 4 of Schedule 1 to the Representation of the People Act 2000 (c. 2) and amended by paragraphs 5 and 105 of Schedule 1 to the Electoral Administration Act 2006 (c. 26). Section 13 was substituted by paragraph 6 of Schedule 1 to the Representation of the People Act 2000.