Draft Regulations laid before Parliament under section 105(6) of the Local Government Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Conduct of Referendums) (England) Regulations 2007

Laid before Parliament in draft

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 45 and 105 of the Local Government Act 2000(**1**):

The Secretary of State has consulted the Electoral Commission about these Regulations in accordance with section 45(8A) of that Act.

In accordance with section 45(8B) of that Act, the Secretary of State has consulted the Electoral Commission on the intelligibility of the questions which may be asked at a referendum as specified in these Regulations. He has laid before each House of Parliament a report stating the views expressed by the Commission in response.

In accordance with section 45(8D) of that Act, the Secretary of State has sought and had regard to the views of the Electoral Commission on the matter of the limitation of referendums expenses. He has laid no statement before each House of Parliament in pursuance of that subsection because these Regulations accord with those views.

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, commencement and revocations

1.—(1) These Regulations may be cited as The Local Authorities (Conduct of Referendums) (England) Regulations 2007.

(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 England.

(**1**) 2000 c. 22; section 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).

(4) The following statutory instruments are revoked—

(a) The Local Authorities (Conduct of Referendums) (England) Regulations 2001(**2**);

(b) The Local Authorities (Conduct of Referendums) (England) (Consequential Amendments) Order 2001(**3**);

(c) The Local Authorities (Conduct of Referendums) (England) (Amendment) Regulations 2004(**4**);

(d) The Civil Partnerships Act 2004 (Amendments to Subordinate Legislation) Order 2005,(**5**) to the extent of Part 3 of Schedule 12.

Interpretation

2.—(1) In these Regulations—

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

"the 1985 Act" means the Representation of the People Act 1985(**7**);

"the 2000 Act" means the Local Government Act 2000(**8**);

"the Petitions and Directions Regulations" means The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000(**9**);

"the Representation of the People Regulations" means The Representation of the People (England and Wales) Regulations 2001(**10**);

"the Combination of Polls Regulations" means The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004(**11**);

"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 the local government electors for the authority's area in accordance with provisions made by or under Part 2 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(**12**);

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

(**2**) S.I. 2001/1298.
(**3**) S.I. 2001/1494.
(**4**) S.I. 2004/226.
(**5**) S.I. 2005/2114.
(**6**) 1983 c. 2.
(**7**) 1985 c. 50.
(**8**) 2000 c. 22.
(**9**) S.I. 2000/2852; amended by S.I. 2001/760 and 2001/1310.
(**10**) S.I. 2001/341; amended by S.I. 2001/1700, 2002/1871, 2004/226, 2006/752 and 2006/2910.
(**11**) S.I. 2004/294; amended by S.I. 2006/3278.
(**12**) 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.

"local government election" must be construed in accordance with section 203(1) of the 1983 Act(**13**);

"mayoral election" must be construed in accordance with The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007(**14**);

"outline fall-back proposals"—

(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 on receipt of 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 2 or Part 3 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 authority are then operating executive or alternative arrangements, a summary of those arrangements;

(ii) in any other case, an outline of the proposals that the 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 authority's existing executive arrangements or existing alternative arrangements (as the case may be);

"petition organiser", 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 council by or in respect of which the referendum is held;

"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 Local Government Act 1972(**15**);

"proposals date"—

(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,

are sent to the Secretary of State; and

(**13**) 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).
(**14**) S.I. 2007/1024.
(**15**) 1972 c. 70.

(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" 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 2 (arrangements with respect to executives etc.) of the 2000 Act;

"referendum period", 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;

"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;

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 referendum

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

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

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

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

Publicity and other information in connection with referendums

4.—(1) Subject to paragraph (2), 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 Secretary of State;

(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) in a case to which regulation 10(1) or (7) 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 the proposals, and of the authority's outline fall-back proposals, may be inspected,

(viii) of the procedures for obtaining a copy of the proposals and outline fall-back 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 he publishes a notice in accordance with paragraph (1) the proper officer of an authority must, by notice in writing, advise—

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

(b) if he 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 other district councils in that county,

that he intends to publish a notice under paragraph (1) and of the date of the referendum to be held in his 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 with seven days from the date of its receipt, indicating whether his authority wish to combine their referendum with that to which that notice refers.

(4) 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 (viii) and, if paragraph (1)(c)(ix) applies (whether or not it applied in relation to the first notice), the particulars specified in that paragraph.

(5) The second notice is to be published—