Draft Order laid before Parliament under section 29(2) of the Regional Assemblies (Preparations) Act 2003 and section 156(4) of the Political Parties, Elections and Referendums Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

DEVOLUTION, ENGLAND
REFERENDUMS
REPRESENTATION OF THE PEOPLE

The Regional Assembly and Local Government Referendums Order 2004

Made - - - -	*2004*
Coming into force - -	*2004*

The First Secretary of State, in exercise of the powers conferred upon him by sections 2(9) and (10) and 7(1) of the Regional Assemblies (Preparations) Act 2003(**1**), and by sections 129 and 156 of the Political Parties, Elections and Referendums Act 2000(**2**), and having consulted the Electoral Commission in accordance with section 12(4) of the Regional Assemblies (Preparations) Act 2003 and section 129(4) of the Political Parties, Elections and Referendums Act 2000, hereby makes the following Order, of which a draft has been laid before, and approved by resolution of, each House of Parliament:

Citation, commencement and application

1.—(1) This Order may be cited as the Regional Assembly and Local Government Referendums Order 2004 and shall come into force on the day after that on which it is made.

(2) This Order applies in relation to Regional Assembly referendums and local government referendums held under sections 1(1) and 2(2) of the Regional Assemblies (Preparations) Act 2003.

Interpretation

2. In this Order and in any provision as applied by this Order, unless the contrary intention appears —

(**1**) 2003 c. 10.
(**2**) 2000 c. 41.

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

"the 2000 Act" means the Political Parties, Elections and Referendums Act 2000(**4**);

"the Elections Regulations" means the Representation of the People (England and Wales) Regulations 2001(**5**);

"the Preparations Act" means the Regional Assemblies (Preparations) Act 2003(**6**);

"the Regional Assembly and Local Government Referendum Rules" means the Rules set out in Schedule 1 to this Order;

"the RP Act 2000" means the Representation of the People Act 2000(**7**);

"ballot number" means a barcode, which may include printed letters and numbers, unique to each ballot pack;

"ballot pack" has the meaning given in rule 10(2) of the Regional Assembly and Local Government Referendum Rules;

"combined polls" means the poll at a Regional Assembly referendum and the poll at a local government referendum taken together;

"combined referendums" means a Regional Assembly referendum and local government referendum where the polls are taken together;

"list of ballot numbers issued" has the meaning given in rule 14(4) of the Regional Assembly and Local Government Referendum Rules;

"local government referendum" means a referendum held in a county area pursuant to an order under section 2(2) of the Preparations Act;

"permitted participant" has the same meaning as in section 105(1) and (1A) of the 2000 Act, as applied and modified by article 7 of, and the Table in Part 1 of Schedule 3 to, this Order;

"referendum" means a referendum to which this Order applies;

"referendum area" means the area in which the referendum is held;

"Regional Assembly referendum" means a referendum held in a region pursuant to an order under section 1(1) of the Preparations Act;

"voting area" means one of the following where comprised in the referendum area—

(a) a district in England,

(b) the Isle of Wight, or

(c) the Isles of Scilly.

Rules for Regional Assembly and Local Government Referendums

3. The Regional Assembly and Local Government Referendum Rules shall have effect for the conduct of a referendum held under section 1(1) or 2(2) of the Preparations Act.

Combination of polls

4. Where the poll at a Regional Assembly referendum and the poll at a local government referendum are to be taken in the same voting area and on the same referendum date, the polls shall be taken together.

(**3**) 1983 c. 2.
(**4**) 2000 c. 41.
(**5**) S.I.2001/341, amended by S.I. 2001/1700 and S.I. 2002/1871.
(**6**) 2003. c. 10.
(**7**) 2000 c. 2.

All-postal voting

5.—(1) The votes at the poll at every referendum shall be given by ballot.

(2) The means by which a person entitled to vote either in person or by proxy may deliver a ballot paper and security statement(**8**) are—

(a) by post; or

(b) by hand to—

(i) the counting officer,

(ii) an assistance and delivery point(**9**), or

(iii) a contingency delivery point(**10**), if such delivery points are provided.

(3) The references in this Order, and any reference in the 2000 Act, the RP Act 2000, the 1983 Act or the Elections Regulations—

(a) to polling day, the day or date of the poll or the date fixed for the poll, shall have effect, in respect of a referendum, as a reference to the date of the referendum;

(b) to the close of the poll, shall have effect, in respect of a referendum, as a reference to 10 p.m. on the date of the referendum; and

(c) to the commencement of the poll, shall have effect, in respect of a referendum, as a reference to the first despatch of the ballot papers at that referendum.

(4) In this Order and in any enactment modified by this Order, references to voting by post, in whatever terms, shall be deemed to include voting by delivering a ballot paper by hand to the counting officer or to any place provided by the counting officer for the purpose of the delivery of ballot papers by hand.

Application and modification of enactments relating to elections

6.—(1) The provisions set out in column (1) of the Tables in Parts 1 to 3 of Schedule 2 shall have effect in relation to a referendum with the modifications shown against those provisions in column (2) of those Tables; and in particular, except where the context otherwise requires—

(a) a reference to an election shall be construed as a reference to a referendum;

(b) a reference to a returning officer or acting returning officer shall be construed as a reference to the counting officer;

(c) a reference to a constituency, an electoral area, division or ward shall be construed as a reference to a voting area;

(d) a reference to voting for, or a vote for, a candidate shall be construed as a reference to voting for, or a vote for, a referendum answer;

(e) a reference to promoting or procuring the election of a candidate, or furthering a person's candidature, shall be construed as a reference to promoting or procuring a particular referendum answer;

(f) references to nomination papers and, except as mentioned in sub-paragraphs (d) and (e), references to candidates, shall be ignored;

(g) a reference to the return of a person shall be construed as a reference to a particular referendum answer;

(h) a reference to a person voting as an elector shall be construed as a reference to a person voting on his own behalf;

(**8**) See rule 10(1) and Form 4 of the Regional Assembly and Local Government Referendum Rules.
(**9**) See rule 21(1) of the Regional Assembly and Local Government Referendum Rules.
(**10**) See rule 30(1) of the Regional Assembly and Local Government Referendum Rules.

(i) a reference to a person's entitlement as an elector to an absent vote shall be construed as a reference to a person's entitlement to vote by post on his own behalf or to vote by proxy;

(j) a reference to an election agent shall be construed as a reference to a referendum agent;

(k) a reference to anything being prescribed shall be construed as a reference to its being provided for by a provision of subordinate legislation applied by this Order;

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

(m) a reference to the registration officer is a reference to the relevant registration officer appointed under section 8 (registration officers) or 203(4) (application to Isles of Scilly) of the 1983 Act;

(n) any reference to an enactment or instrument made under an enactment shall be construed as a reference to that enactment or instrument as applied and modified (where applicable) by this Order; and

(o) so much of any provision as—

(i) relates to an election petition or an election court; or

(ii) applies only in relation to Scotland, Wales or Northern Ireland,

shall be ignored.

(2) The form shown in Part 4 of Schedule 2 shall have effect as the form of proxy paper for the appointment of a proxy at a particular Regional Assembly referendum or particular combined referendums.

Application of and modifications to the Political Parties, Elections and Referendums Act 2000

7.—(1) The provisions of the 2000 Act mentioned in column (1) of the Table in Part 1 of Schedule 3 to this Order shall apply in relation to a local government referendum with the modifications (if any) shown against those provisions in column (2) of that Table.

(2) The provisions of the 2000 Act mentioned in column (1) of the Table in Part 2 of Schedule 3 (provisions of Chapter 2 of Part 7 (financial controls and referendum expenses)) shall apply in relation to a local government referendum with the modifications (if any) shown against those provisions in column (2) of that Table; and where such modifications are shown they shall also apply in relation to a Regional Assembly referendum.

Supply of full register to the Electoral Commission

8. Regulation 100 (supply of free copy of full register etc to Electoral Commission and restrictions on use) of the Elections Regulations shall apply in relation to a referendum as if—

(a) in paragraph (3)(c), at the end, there were inserted "or the Regional Assemblies (Preparations) Act 2003"; and

(b) references to the 2000 Act were references to that Act as modified by this Order.

Chief counting officers and counting officers

9.—(1) For a local government referendum—

(a) there shall be a Chief Counting Officer who shall be the person who is for the time being the Chief Counting Officer for the Regional Assembly referendum in the region(**11**);

(**11**) For the designation or appointment of a Chief Counting Officer for a Regional Assembly referendum, and for the appointment of counting officers for such referendum see section 128 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

(b) there shall be a counting officer for each voting area who shall be the counting officer in that area for the Regional Assembly referendum in the region;

(c) the local authority in each voting area shall place the services of their officers at the disposal of the counting officer for that area, for the purpose of assisting him in the discharge of his functions;

(d) each counting officer shall, as respects the votes cast in each voting area for which he is the counting officer, certify—

(i) the number of ballot papers counted by him, and

(ii) the number of votes cast in favour of each answer to the question asked in the local government referendum;

(e) a counting officer shall not make his certification under sub-paragraph (d) until he has been directed by the Chief Counting Officer that he may do so;

(f) the Chief Counting Officer shall certify in relation to the local government referendum—

(i) the total number of ballot papers counted, and

(ii) the total number of votes cast in favour of each answer to the question asked,

in the whole of the referendum area.

(2) For a Regional Assembly referendum, a counting officer shall not make his certification under section 128(5) of the 2000 Act until he has been directed by the Chief Counting Officer that he may do so.

(3) In paragraph (1)(c), "the local authority" means—

(a) where the voting area is a district in England, the council for that area, or

(b) where the voting area is the Isle of Wight or the Isles of Scilly, the Council of the Isle of Wight or the Council of the Isles of Scilly, respectively.

General duty of counting officers

10.—(1) It shall be the duty of—

(a) the Chief Counting Officer; and

(b) the counting officer for a voting area,

to do all such acts and things as may be necessary for effectually conducting the referendum in the manner provided by this Order.

(2) It shall be the duty of the counting officer for each voting area wholly or partly comprised in a referendum area to—

(a) conduct the poll in that area;

(b) verify the ballot papers at the poll; and

(c) count the votes cast in that poll.

(3) The Chief Counting Officer may give, to the counting officer for a voting area, directions relating to the discharge of his functions at the referendum, including directions requiring the provision to the Chief Counting Officer of any information which the counting officer has or is entitled to have.

(4) It shall be the duty of a counting officer to whom directions are given under paragraph (3) to discharge his functions at the referendum in accordance with the directions.