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

2001 No.

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Conduct of Referendums) (England) Regulations 2001

Made - - - -	*2001*
Coming into force - -	*2001*

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by sections 45 and 105 of the Local Government Act 2000(**1**), hereby makes the following Regulations, of which a draft has been laid before, and approved by Resolution of, each House of Parliament:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authorities (Conduct of Referendums) (England) Regulations 2001 and shall come into force on the day after that on which they are made.

(2) These Regulations apply to the holding of referendums by local authorities in England.

Interpretation

2.—(1) In these Regulations, and in any provision as applied by these Regulations—

"the 2000 Act" means the Local Government Act 2000;

"the Elections Act" means the Political Parties, Elections and Referendums Act 2000(**2**);

"the RPAct 2000" means the Representation of the People Act 2000(**3**);

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

"the 1983 Act" means the Representation of the People Act 1983(**5**);

(**1**) 2000 c. 22. For the application of that Act to Wales, *see* section 106. Section 45 is amended, prospectively, by the Political Parties, Elections and Referendums Act 2000 (c. 41), Schedule 21, paragraph 18.
(**2**) 2000 c. 41.
(**3**) 2000 c. 2.
(**4**) 1985 c. 50.
(**5**) 1983 c. 2.

"the 1986 Regulations" means the Representation of the People Regulations 1986(**6**);

"the Elections Regulations" means the Representation of the People (England and Wales) Regulations 2001(**7**);

"the European Parliamentary Elections Rules" means the rules set out in the European Parliamentary Elections Regulations 1999(**8**);

"the GLA Elections Rules" means the Greater London Authority Elections (No. 2) Rules 2000(**9**);

"the LGA Referendum Rules" means so much of the Principal Areas Rules as are applied, with or without modification(**10**), in relation to a referendum by regulation 8 of these Regulations;

"the Parliamentary Elections Rules" means the rules set out in Schedule 1 to the 1983 Act;

"the Petitions and Directions Regulations" means the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000(**11**);

"the Principal Areas Rules" means the Local Elections (Principal Areas) Rules 1986(**12**);

"counting observer" means a person appointed by a counting officer under regulation 13(1)(b);

"counting officer" means a person referred to in regulation 11(1);

"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 II of the 2000 Act;

"further referendum" means a referendum held in pursuance of an order under regulation 21(3);

"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 II or Part III 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;

(**6**) S.I.1986/1081; amended by S.I. 1990/520, 1991/1198 and 1728, 1992/722, 1994/342, 1995/1948 and 2001/341.
(**7**) S.I. 2001/341.
(**8**) S.I. 1999/1214.
(**9**) S.I. 2000/427, amended by S.I. 2000/1040.
(**10**) *See*, in particular, Table 3 in Schedule 3.
(**11**) S.I. 2000/2852.
(**12**) S.I. 1986/2214; amended by S.I. 1987/261, 1990/158, 1995/1948 and 2001/81.

"petition organiser", in relation to a referendum, means a person who is treated for the purposes of paragraph (4) or, as the case may be, paragraph (5) of regulation 10 (formalities of petition) 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(**13**);

"polling observer" means a person appointed by a counting officer under regulation 11(3);

"proper officer" has the meaning given by section 270(3) of the Local Government Act 1972(**14**);

"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 that Act,

are sent to the Secretary of State; and

(b) in relation to a further referendum, means the day which falls 2 months before the day on which 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 II (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; and

"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.

The question to be asked in a referendum

3.—(1) Where the proposals in relation to which a referendum is to be held involve a mayor and cabinet executive(**15**), the question to be asked in that referendum shall be in the form set out in paragraph 1 of Part I of Schedule 1 to these Regulations.

(2) Where the proposals in relation to which a referendum is to be held involve a mayor and council manager executive(**16**), the question to be asked in that referendum shall be in the form set out in paragraph 2 of Part I of Schedule 1.

(**13**) 3S.I. 2000/2852. The definition of "petition organiser" is to be found in regulation 3 of the Petitions and Directions Regulations. As to the validity of petitions, *see* regulation 9(1) of those Regulations. As to amalgamated, constituent and post-announcement petitions, relevant definitions are to be found in regulation 3 of those Regulations.
(**14**) 1972 c. 70.
(**15**) *See* section 11(2) of the Local Government Act 2000.
(**16**) *See* section 11(4) of the Local Government Act 2000.

(3) Where the proposals in relation to which a referendum is to be held involve a leader and cabinet executive(**17**), the question to be asked in that referendum shall be in the form set out in paragraph 3 of Part I of Schedule 1.

Publicity and other information in connection with referendums

4.—(1) The proper officer shall, as soon as reasonably practicable after the proposals date, but subject to paragraph (2), 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 section 33,

have been sent to the Secretary of State;

(b) a description of the main features of the proposal 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 14(1), (7) or (11) applies, that the poll in the referendum will be taken together with the poll in an election of a description which shall be specified in the statement,

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

(v) where the authority have made a determination under regulation 10(1), that the votes in the referendum may be cast only by postal ballot,

(vi) where no such determination has been made, that the referendum will be conducted in accordance with procedures similar to those used at local government elections,

(vii) of the referendum expenses limit (as defined in regulation 6(1)) that will apply in relation to the referendum, and of the number of local government electors by reference to which that limit has been calculated,

(viii) of the address and times at which a copy of the proposals, and of the authority's outline fall-back proposals, may be inspected,

(ix) of the procedures for obtaining a copy of the proposals and outline fall-back proposals, and

(x) 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 polls will be taken together for two (or more) areas, which shall be specified in the statement.

(2) At least 14 days before he publishes a notice in accordance with paragraph (1) the proper officer of an authority shall, 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;

(**17**) *See* section 11(3) of the Local Government Act 2000.

(b) if he is the proper officer of the council of a district 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 shall be 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 reasonably practicable to combine that referendum with the one of which such notice has been given; and each such officer shall reply to the notice within seven days of its receipt, indicating whether his authority wish to combine their referendum with that to which the notice under paragraph (2) refers.

(4) Unless the notice required to be published by paragraph (1) ("the first notice") is published less than 56 days before the date of the referendum, the proper officer shall publish a second notice containing the particulars specified in paragraphs (i) to (ix) of sub-paragraph (c) of paragraph (1) and, if paragraph (x) of that sub-paragraph applies (whether or not it applied in relation to the first notice), the particulars specified in that paragraph.

(5) The second notice shall be published—

(a) in the same newspaper or newspapers as were used for the publication of the first notice, and

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

(6) The authority shall make available for inspection throughout the referendum period, at the address and times stated in the notice, and free of charge, a copy of their proposals and outline fall-back proposals, and shall 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 the proposals, the outline fall-back proposals and 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 shall, in accordance with section 38, be had to any guidance for the time being issued by the Secretary of State under section 38.

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) Subject to paragraph (3), no material to which this regulation applies shall 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;