
DRAFT STATUTORY INSTRUMENTS

2016 No.

TOWN AND COUNTRY PLANNING, ENGLAND

**The Neighbourhood Planning (Referendums) (Amendment)
Regulations 2016**

Made - - - - *****
Coming into force - - *1st October 2016*

The Secretary of State, in exercise of the powers conferred by section 333(2A) of, and paragraph 16(1) and (2)(c) of Schedule 4B to, the Town and Country Planning Act 1990(a) and section 38A(3) of the Planning and Compulsory Purchase Act 2004(b), makes the following Regulations.

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 the 1990 Act(c), 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) (Amendment) Regulations 2016 and come into force on 1st October 2016.

Amendments to the Neighbourhood Planning (Referendums) Regulations 2012

2. After regulation 2 of the Neighbourhood Planning (Referendums) Regulations 2012(d) insert—

“Date by which referendum must be held

2A.—(1) The referendum must be held on or before the date prescribed in paragraph (2).

(2) The date prescribed in this paragraph is—

(a) where—

(i) regulation 10 applies,

(ii) regulation 16 applies, or

(a) 1990 c. 8. Schedule 4B was inserted by section 116 of, and Schedule 10 to, the Localism Act 2011 (c.20) (“the 2011 Act”).
(b) 2004 c. 5. Section 38A was inserted by section 116 of, and paragraph 7 of Schedule 9 to, the 2011 Act.
(c) Section 333(3A) was inserted by section 121 of, and paragraph 22(3) of Schedule 12 to, the 2011 Act.
(d) S.I. 2012/2031, amended by S.I. 2013/798 and S.I. 2014/333.

(iii) regulation 17 applies,

the date which is the last day of the period of 84 days beginning with the day immediately following the day on which the decision that the referendum must be held is first published in accordance with paragraph 12(11) of Schedule 4B to the 1990 Act;

(b) in all other cases, the date which is the last day of the period of 56 days beginning with the day immediately following the day on which that decision is first published in accordance with that paragraph.

(3) Paragraph (1) does not apply where—

(a) the local planning authority and the qualifying body agree that the referendum need not be held by the date prescribed in paragraph (2);

(b) the poll at the referendum is taken on the same day as another poll in accordance with regulation 11 (whether or not the polls are taken together), provided that day is no later than the date 65 days from the date prescribed in paragraph (2);

(c) proceedings for questioning the decision that the referendum must be held have been brought in accordance with section 61N(2) of the 1990 Act^(a) before the date prescribed in paragraph (2).

(4) The days mentioned in paragraph (5) are to be disregarded in calculating any date referred to in this regulation.

(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^(b) in England, and

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

Signed by authority of the Secretary of State for Communities and Local Government

Name

Minister of State

Date

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Neighbourhood Planning (Referendums) Regulations 2012 (S.I. 2012/2031) (the “2012 Regulations”). The 2012 Regulations make provision for the conduct of referendums held in accordance with paragraphs 14 and 15 of Schedule 4B to the Town and Country Planning Act 1990 (“the 1990 Act”) in relation to the question of whether a neighbourhood development plan, neighbourhood development order or a community right to build order should be made in relation to a neighbourhood area in England.

Regulation 2 of these Regulations inserts a new regulation 2A of the 2012 Regulations that prescribes a date by which a referendum must be held. Paragraph (2) of the new regulation 2A prescribes this as the date 56 days from the day after a local planning authority publishes their decision that a referendum must be held. A longer period of 84 days is allowed where a business referendum is also required to be held, where the referendum area comprises any part of the area of two or more relevant councils, or where the relevant council is not the local planning authority.

(a) Section 61N was inserted by section 116 of, and paragraph 2 of Schedule 9 to, the 2011 Act and is applied to neighbourhood development plans by section 38C(2)(d) of the 2004 Act, inserted by paragraph 7 of that Schedule.

(b) 1971 c. 80. There are amendments to the Act that are not relevant to these Regulations.

Paragraph (3) of the new Regulation 2A describes circumstances in which the referendum need not be held by the prescribed date, though a relevant council may still choose to hold the referendum by the prescribed date. Paragraphs (4) and (5) provide that any days used to calculate dates referred to in these Regulations are working days.

An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or the voluntary sector.

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