

EXPLANATORY MEMORANDUM ON
THE REGIONAL ASSEMBLY AND LOCAL GOVERNMENT
REFERENDUMS (EXPENSES LIMITS FOR PERMITTED PARTICIPANTS)
ORDER 2004

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

The instrument uses powers under section 2(9) of the Regional Assemblies (Preparations) Act 2003 (“the Preparations Act”) and under paragraph 2 of Schedule 14 to the Political Parties, Elections and Referendums Act 2000 (“PPERA”) to make provisions limiting the amounts that permitted participants may spend on their campaigns at Regional Assembly and Local Government referendums held under the Preparations Act. The instrument regulates the sum that the same participant may spend in total on any number of referendums in the same region.

3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**

- 3.1 A referendum about the establishment of an elected regional assembly (“a Regional Assembly referendum”) is subject, as a regional referendum, to the requirements of Part 7 of PPERA (including Schedule 14). That Act does not apply to sub-regional referendums. The PPERA is applied with modifications in relation to such sub-regional local government referendums by the proposed Regional Assembly and Local Government Referendums Order 2004 (“the Referendums Order”) so there is one consistent scheme for regulation of campaign participation in both the regional and local referendums.

- 3.2 This instrument is dependent on the modifications to Schedule 14 of PPERA which are to be made by the Referendums Order. Although both instruments are laid before Parliament for approval at the same time, this instrument would not be made until the Referendums Order is in force.

4. **Legislative Background**

- 4.1 This Order is to be made under section 2(9) of the Preparations Act, and paragraph 2 of Schedule 14 to PPERA. It represents the first use of those powers for setting limits on permitted participants’ expenditure.
- 4.2 This instrument is related to two other draft orders laid at the same time, namely:

- i. The Regional Assembly and Local Government Referendums Order 2004
- ii. The Regional Assembly and Local Government Referendums (Counting Officer's Charges) Order 2004.

5. **Extent**

- 5.1 This instrument extends to all of the United Kingdom.
- 5.2 It applies only to Regional Assembly and local government referendums held in England under sections 1(1) and 2(2) of the Preparations Act and sets limits specifically in respect of the three regions anticipated to be having referendums in Autumn 2004.

6. **European Convention on Human Rights**

- 6.1 The Minister of State for Local and Regional Government (Mr. Nick Raynsford), has made the following statement:

“In my view the provisions of the Regional Assembly and Local Government Referendums (Expenses Limits) Order 2004 are compatible with the Convention rights.”

7. **Policy background**

- 7.1 PPERA prescribes referendum expenditure limits for UK wide referendums. Where a referendum is restricted to a particular nation or region, expenditure limits may be set out in an Order made by the Secretary of State.
- 7.2 At a referendum under PPERA, participants may only spend over £10,000 on their campaign during the referendum period if they have registered with the Electoral Commission as a permitted participant, indicating the referendum outcome for which they intend to campaign. They are then subject to requirements to account for their campaign spending and fundraising to the Electoral Commission.
- 7.3 The purpose of this instrument is to set limits on the amounts that may be spent by a particular participant in a region. As a participant may choose to campaign in one or several referendums in a region (i.e. the Regional Assembly referendum, one or more local government referendums, or any combination), so the instrument sets an overall cap to restrict a participant from being entitled to spend a greater sum than others by the device of being a permitted participant in relation to more than referendum in a region.
- 7.4 The approach to setting spending limits is modelled on that in paragraph 1 to Schedule 14 of the Political Parties, Elections and Referendums Act 2000 which applies to UK wide referendums.
- 7.5 There are three types of limit, which are expressed in the Order in relation to specific regions. They are in fact reached using the same formula for each

region and the only reason for difference between regions is due to the different number of electors in each region.

- 7.6 At a Regional Assembly referendum, permitted participants can apply to the Electoral Commission for designated status to become the lead campaign group for a Yes or No outcome. As a "designated organisation", the participant is entitled to additional campaign benefits. In each region a limit is set for the expenditure by a designated organisations. It is calculated by taking a base figure of £500,000, representing core campaign costs, and adding 0.085 pence per elector in that region.
- 7.7. For registered political parties (that are not designated organisations), the expense limits are related to the party share of the vote at the previous European Parliamentary election, which is held on the same regional basis. Each limit is a fixed proportion of the allowance for designated organisations. So:

Party share of vote at previous European Parliamentary Election	Proportion of limit for designated organisation
5> - 10% vote share	40%
10> - 20% vote share	60%
20> - 30% vote share	80%
30%> vote share	100%

- 7.8 Where a party's vote share is 5% or below it is treated in the same fashion as any other permitted participant for whom there is a single £100,000 limit on expenditure in all of the regions.
- 7.9 For clarity and administrative convenience the figures reached when calculating by the number of electors, have been rounded to the nearest £5,000.
- 7.10 In drawing up this Order, ODPM officials have worked closely with officials from DCA and the Electoral Commission in regular fortnightly working group meetings. Public consultation with political parties, campaign groups, local authorities and disability organisations on an earlier version of the draft Order was held by ODPM between 18th December 2003 and 16th February 2004. 16 responses were received, mainly from local authorities and political parties. A majority of respondents approved of the approach adopted and considered the spending limits set to be reasonable. The consultation paper and a report summarising the views expressed is available on the ODPM website at www.odpm.gov.uk/regions.

8. **Impacts**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the costs of businesses, charities or voluntary bodies, save to the extent that it restricts the campaign expenditure of permitted participants.

Costs

The Electoral Commission has responsibility for policing observance of the limits and is allocated funds from the Speaker's Committee.

9. **Contact**

Lise-Anne Boissiere at the Office of the Deputy Prime Minister (tel: 020-7944-5155) or email: lise-anne.boissiere@odpm.gsi.gov.uk can answer any queries regarding the instrument.