
WELSH STATUTORY INSTRUMENTS

2001 No. 2292

The Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001

PART I
GENERAL

Citation, commencement and application

1.—(1) These Regulations are called the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 and shall come into force on 28 July 2001.

(2) These Regulations apply to Wales only.

General interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Local Government Act 2000;

“authority” (“*awdurdod*”) means a county or county borough council in Wales; and

“outline fall-back proposals” (“*cynigion wrth-gefn amlinellol*”) means an outline of the proposals that an authority intend to implement if proposals that are to be the subject of a referendum under Part II or Part III of these Regulations are rejected in that referendum.

(2) Except in the definition of “proper officer” in regulation 3, any reference in these Regulations to a section followed by a number is a reference to the section bearing that number in the Act.

PART II
PETITIONS AND REFERENDUMS

Interpretation of Part II

3. In this Part—

“alternative arrangements” (“*trefniadau amgen*”) means arrangements specified in regulations made by the National Assembly for Wales under section 32(1) of the Act;

“amalgamated petition” (“*deiseb gyfun*”) means the single petition resulting from an amalgamation of petitions in accordance with paragraph (1) or (3) of regulation 8;

“constituent petitions” (“*deisebau cyfansoddol*”) means petitions that have been amalgamated;

“constitutional change” (“*newid cyfansoddiadol*”) means—

(a) unless a local authority is operating executive arrangements which involve an elected mayor, a proposal that the authority should operate executive arrangements—

- (i) under which the executive takes the form specified in subsection (2) or (4) of section 11 (local authority executives), or otherwise involves an elected mayor; or,
- (ii) in a form that is not specified in the proposal;
- (b) where a local authority are operating executive arrangements which involve an elected mayor (“existing executive arrangements”), a proposal that the authority should operate executive arrangements under which the executive takes a form which—
 - (i) is specified in the proposal;
 - (ii) involves an elected mayor; and
 - (iii) differs from the form of executive under the existing executive arrangements;

“moratorium period” (“*cyfnod moratoriwm*”) in relation to a local authority’s area and a petition, means the period of 48 months commencing with the day on which a referendum was last held under Part II of the Act in relation to that area;

“notice period” (“*cyfnod hysbysu*”), in relation to a petition, means the period of one month beginning with the petition date;

“petition” (“*deiseb*”), unless the context otherwise requires, includes an amalgamated petition;

“petition date” (“*dyddiad y ddeiseb*”)—

- (a) in relation to a petition submitted prior to the publication of the verification number in accordance with regulation 4(1) means the date on which that verification number is published;
- (b) subject to paragraph (d), in relation to constituent petitions amalgamated in accordance with regulation 8(3), means the latest date on which a constituent petition was received by the authority;
- (c) subject to paragraph (d), in relation to any other petition, means the date on which it was received by the authority;
- (d) in relation to a petition received within the period of six months beginning with the date that is twelve months before the earliest date on which a second (or subsequent) referendum may lawfully be held in the area of the authority to whom the petition is addressed, means the date on which that period of six months ends;

“petition organiser” (“*trefnydd deiseb*”)—

- (a) in relation to constituent petitions amalgamated in accordance with paragraph (1) of regulation 8, means the person determined in accordance with paragraph (5) of regulation 10;
- (b) in any other case, has the meaning given by paragraph (4) of regulation 10;

“post-announcement petition” (“*deiseb ôl-gyhoeddiad*”) means a petition received in the circumstances mentioned in regulation 7(1);

“proper officer” (“*swyddog priodol*”) has the meaning given by section 270(3) of the Local Government Act 1972(1);

“valid petition” (“*deiseb ddilys*”) has the meaning given by regulation 9(1);

“verification number” (“*rhif dilysu*”), in relation to a petition, means the number to be used for verification purposes by virtue of paragraph (2), (3), (6) or (7) of regulation 4, as the case may be; and

“verification purposes” (“*dibenion dilysu*”) means the purposes of establishing whether a petition is a valid petition.

Verification number

4.—(1) Not later than four weeks after the date on which these Regulations come into force, the proper officer of each authority shall publish the number that is equal to 10% of the number of local government electors for the authority's area as shown in the electoral register or registers published and having effect for the authority's area for the period commencing on 16th February 2001(2).

(2) Subject to paragraph (3) the number published in accordance with paragraph (1) shall be used for verification purposes in relation to any petition presented to the authority before 1st April 2002.

(3) Where the number published in 2002 in accordance with paragraph (4) is less than the number published in 2001, the number to be used for verification purposes, in relation to any petition presented to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1st April 2002, shall be that lesser number.

(4) Subject to paragraph (5), in each year commencing with the year beginning on 1st January 2002, the proper officer of each authority shall, within the period of 14 days beginning with 15th February publish the number that is equal to 10% of the number of local government electors for the authority's area shown in the revised version of the register or, as the case may be, the registers having effect for that area on that 15th February(3).

(5) Where the whole of the period of 12 months beginning with 1st April in any year to which paragraph (4) applies falls within a moratorium period, that paragraph shall not apply as respects the years in which part of that period of 12 months falls.

(6) Subject to paragraph (7), the number published in each year in accordance with paragraph (4) shall be used for verification purposes in relation to any petition presented to the authority in the period of 12 months beginning with 1st April in that year.

(7) Where the number published in any year after 2002 in accordance with paragraph (4) is less than the number published in the preceding year, the number to be used for verification purposes, in relation to any petition presented to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1st April in that year, shall be that lesser number.

(8) The proper officer may, in connection with the discharge of the duty imposed by paragraphs (1) and (4), make a request in writing to an electoral registration officer to provide the proper officer with information relevant to the number that is to be published in accordance with either of those paragraphs; and an electoral registration officer who receives such a request shall comply with it within the period of seven days beginning with the day on which the request is received.

Publicity for verification number

5. As soon as reasonably practicable after the publication of a number in accordance with regulation 4(1) or (4), the authority shall publish in at least one newspaper circulating in its area a notice containing a statement—

- (a) that the authority's proper officer has published the number that is equal to 10 % of the number of local government electors shown in the electoral register or registers having effect for the authority's area—
 - (i) where it is published in the circumstances mentioned in paragraph (1) of regulation 4, for the period commencing 16th February 2001;
 - (ii) where it is published in the circumstances mentioned in paragraph (4) of regulation 4, on 15th February in that year;
- (b) of the number so published;

(2) Section 13 of the Representation of the People Act 1983 (c. 2) substituted by the Representation of the People Act 2000 (c. 2), Schedule 2, paragraph 6 on 16 February 2001.

(3) See section 13(5) of the Representation of the People Act 1983 substituted by the Representation of the People Act 2000, Schedule 1, paragraph 6, as to the period for which registers have effect.

- (c) that the number so published will have effect—
 - (i) where it is published in the circumstances mentioned in paragraph (1) of regulation 4, for the purposes of determining the validity of petitions presented to the authority before 1 April 2002, unless the circumstances mentioned in paragraph (3) of that regulation apply;
 - (ii) where it is published in the circumstances mentioned in paragraph (4) of regulation 4, for the purposes of determining the validity of petitions presented to the authority after 31 March in the year of publication and before 1st April in the following year, unless a different number has effect by virtue of paragraph (7) of regulation 4; and
- (d) of the effect of paragraphs (3) and (7) of regulation 4; and
- (e) of the address of the authority's principal office.

Petitions for a referendum

6.—(1) Subject to regulations 7, 8(8) and 19, an authority shall hold a referendum by virtue of this Part where it receives a valid petition (but shall not be required to hold such a referendum where it receives a petition which is not a valid petition).

- (2) A petition may be presented to a local authority—
 - (a) by properly addressing, pre-paying and posting it to the authority's principal office; or
 - (b) by delivering it to the authority's principal office.

Post-announcement and post-direction petitions

7.—(1) In relation to a petition received after an authority has given notice of its intention to hold a referendum and of the date on which that referendum will be held (whether pursuant to this Part, a direction under regulation 18, or section 27 (referendum in case of proposals involving elected mayor)) on proposals which involve a directly elected mayor, nothing in this Part shall require an authority to hold a referendum or to take any steps other than those specified in paragraph (2) and regulation 12.

(2) The steps specified in this paragraph are to secure that the proper officer, as soon as reasonably practicable after the receipt of the petition—

- (a) notifies the National Assembly for Wales and the petition organiser—
 - (i) of the receipt of the petition;
 - (ii) that the petition is a post-announcement petition; and
 - (iii) that the authority propose to take no further action in relation to it;
 and
 - (b) notifies the petition organiser that the petition organiser may, within the period of two months beginning with the date of the notice, request the National Assembly for Wales to consider the exercise of any power conferred on it by Part III of these Regulations.
- (3) Where—
- (a) a petition is received by an authority—
 - (i) after it has received a direction under regulation 18(1); and
 - (ii) before it has given notice of the date on which the referendum is to be held pursuant to the direction; and
 - (b) the constitutional change proposed in the petition is the same as that in relation to which the direction requires the referendum to be held,

the authority shall take no further action in relation to the petition and shall, as soon as reasonably practicable, comply with the requirements of paragraph (4).

- (4) The authority shall notify the National Assembly for Wales and the petition organiser—
 - (a) of the receipt of the petition; and
 - (b) that it proposes to take no further action in relation to the petition because it proposes the same constitutional change as that in relation to which the referendum is to be held pursuant to the direction.
- (5) Where—
 - (a) a petition is received by an authority—
 - (i) after it has received a direction under regulation 18(1); and
 - (ii) before it has given notice of the date on which the referendum is to be held pursuant to the direction; and
 - (b) the constitutional change proposed in the petition is not the same as that in relation to which the direction requires the referendum to be held,

the authority shall secure that the proper officer determines, in accordance with this Part, whether the petition is a valid petition.

- (6) Where the proper officer determines that a petition of the description in paragraph (5) is not a valid petition, the proper officer shall comply with regulation 14(1) but, subject to that—
 - (a) the authority shall take no further action in relation to the petition; and
 - (b) for the purposes of regulation 21, the date of the direction shall be the date of the proper officer's determination.
- (7) For the purposes of paragraphs (3) to (5)—
 - (a) in relation to a direction under regulation 18(1) that requires an authority to hold a referendum on a form of executive that includes an elected mayor, a petition received subsequently by that authority in which the form of executive is not specified, shall be treated as proposing the same constitutional change; and
 - (b) other constitutional changes shall be treated as the same if they propose executive arrangements under which the executive takes the same form.

Amalgamation of petitions

8.—(1) Where more than one petition relating to the same area has been prepared, those petitions may, at any time before their presentation to the authority, be amalgamated; and those petitions shall then be treated for all other purposes of this Part as a single petition.

(2) Where constituent petitions amalgamated under paragraph (1) do not propose the same constitutional change, the amalgamated petition shall not be entertained by the authority unless it is accompanied by a statement, signed by the petition organiser in relation to the amalgamated petition, that the amalgamated petition is presented with the agreement of the petition organiser of each of the constituent petitions.

(3) Subject to paragraphs (4), (5) and (6), where an authority receives more than one petition relating to the same area, the proper officer shall, if satisfied as to their validity in every respect other than that mentioned in regulation 9(1)(a), amalgamate those petitions in accordance with paragraph (7); and those petitions shall then be treated for all other purposes of this Part as a single petition.

(4) The proper officer shall not amalgamate petitions if satisfied that the first petition received by the authority (including constituent petitions amalgamated in accordance with paragraph (1))

contains a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and is, in other respects, a valid petition.

(5) Once an amalgamated petition (amalgamated in accordance with paragraph (3)) contains a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and is, in other respects, a valid petition, the proper officer shall not amalgamate any other petition with that amalgamated petition.

(6) The proper officer

(a) shall not amalgamate petitions that do not propose the same constitutional change unless the proper officer has obtained in writing the agreement of the petition organiser of each petition that would, after amalgamation, be a constituent petition.

(b) shall inform each petition organiser whose agreement is required for the purposes of sub-paragraph (a) of the consequence of amalgamation specified in paragraph (10) below.

(7) Petitions shall be amalgamated in the order in which they are received except that, where more than one petition is received on the same day—

(a) the petition that contains the greatest number of signatures shall be treated as the first to be received;

(b) the petition that proposes the same constitutional change as that proposed in the petition identified in accordance with sub-paragraph (a) shall be treated as the second to be received; and if there is more than one such petition, those petitions shall be treated as received in sequence, beginning with the petition that contains the greater number of signatures;

(c) any other petitions shall be treated as received in the following order—

(i) the petition that contains the greatest number of signatures;

(ii) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with paragraph (i);

(iii) the petition that contains the next greatest number of signatures;

(iv) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with paragraph (iii);

(v) the petition that contains the next greatest number of signatures; and so on.

(8) Where—

(a) an authority receives more than one petition on the same day; and

(b) those petitions each contain a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and are, in other respects, valid petitions; and

(c) those petitions do not propose the same constitutional change,

that authority shall make a determination as to the petition in relation to which it will hold a referendum.

(9) Before making a determination under paragraph (8)—

(a) the authority shall take into account the outcome of any prior consultation undertaken by that authority in pursuance of sections 25 or 31 or regulations 17 or 19; and

(b) if the authority considers it necessary, undertake further consultation with the local government electors for, and other interested persons in, the authority's area.

(10) Where an amalgamated petition results from the combination of constituent petitions which do not propose the same constitutional change, the amalgamated petition shall be treated for the

purposes of this Part as proposing that the authority should operate executive arrangements under which the proposed form of executive is not specified.

- (11) For the purposes of this regulation, constitutional changes shall be treated as the same—
- (a) if they propose executive arrangements under which the executive takes the same form; or
 - (b) if the proposed form of executive is not specified.

Validity of petitions

9.—(1) Subject to paragraph (2), a petition shall be a valid petition if—

- (a) it is signed (whether before or after the passing of the Act or the coming into force of these Regulations) by not less than the verification number;
- (b) it satisfies the requirements of regulation 10; and
- (c) it is presented to the authority to which it is addressed on a day other than one that falls within a moratorium period.

(2) A petition shall not be invalid by reason only of a failure to satisfy any requirement of regulation 10 if the constitutional change in relation to which the referendum is sought can be ascertained.

(3) Where a person signs a petition but the information referred to in regulation 10(3)(a) is not included, or is not included in a legible form, that person's signature shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).

(4) If a person signs a petition more than once, that person's second or subsequent signature shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).

(5) Any signature on a petition which bears a date earlier than 12 months before the petition date shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).

Formalities of petition

10.—(1) A petition shall on each sheet state—

- (a) the name of the authority to whom it is addressed; and
- (b) the constitutional change in relation to which the referendum is sought.

(2) A petition shall, on each sheet, contain a statement in the terms set out in Schedule 1 to these Regulations or in terms to similar effect.

(3) In relation to each person who signs a petition the following information shall be given—

- (a) that person's first name and surname and address; and
- (b) the date on which that person signs the petition.

(4) A petition shall contain, or shall be accompanied by a statement that contains, the name and full address of the person (in this Part referred to as the "petition organiser") to whom correspondence relating to the petition is to be sent.

(5) Where petitions are amalgamated before they are presented to the authority—

- (a) the petition organiser of each of the constituent petitions shall determine the identity of the person (whether or not that person is the petition organiser of any of the constituent petitions) who is to be the petition organiser for the purposes of the amalgamated petition; and
- (b) the petition organiser of the amalgamated petition shall notify the authority of the petition organiser's name and full address.

Procedure on receipt of petition

- 11.—(1) As soon as reasonably practicable after receipt of a petition, the proper officer shall—
- (a) if paragraph (3) of regulation 8 applies in relation to the petition, notify the petition organiser of each of the constituent petitions, of the petition date of the amalgamated petition; or
 - (b) in any other case, notify the petition organiser of the petition date.
- (2) As soon as reasonably practicable after receipt of a petition, and not later than the end of the notice period, the proper officer shall determine the validity of the petition.
- (3) Where the petition is a second (or subsequent) petition (“later petition”) which cannot lawfully be amalgamated with an earlier petition for a reason mentioned in paragraph (4), (5) or (6) of regulation 8, the proper officer shall take steps specified in paragraph (4) below, and such other steps as the National Assembly for Wales may direct.
- (4) The steps specified in this paragraph are that, within the notice period, the proper officer—
- (a) shall notify the National Assembly for Wales and the petition organiser—
 - (i) of the receipt of the petition and of its petition date;
 - (ii) of the receipt of every earlier petition and of its petition date;
 - (iii) of the reason why the later petition cannot be amalgamated with any earlier petition; and
 - (iv) that, by reason of the receipt of an earlier valid petition, the proper officer proposes to take no further action in relation to the later petition; and
 - (b) shall notify the petition organiser that the petition organiser may, within the period of two months beginning with the date of the notice, request the National Assembly for Wales to consider the exercise of any power conferred on it by regulation 18.

Public inspection of petitions

12. The authority shall secure that, for the period of six years beginning with the petition date, a petition is available at its principal office for inspection by members of the public at all reasonable times and free of charge.

Publicity for valid petitions

- 13.—(1) Where the proper officer is satisfied that a petition is valid, the proper officer shall, within the notice period, notify the National Assembly for Wales and either the petition organiser or where the petition has been amalgamated in accordance with regulation 8(3) the petition organiser of each of the constituent petitions—
- (a) of the proper officer’s conclusion; and
 - (b) that a referendum will be held.
- (2) In a case to which paragraph (1) applies, the authority shall publish in at least one newspaper circulating in its area a notice which contains a statement—
- (a) that a valid petition has been received;
 - (b) of the constitutional change sought or, as the case may be, treated as sought, by the petition;
 - (c) of the petition date;
 - (d) that the petition is available at the authority’s principal office for inspection by members of the public at all reasonable times and free of charge;
 - (e) of the address of the authority’s principal office; and

- (f) that a referendum will be held.

Publicity for invalid petitions and those petitions in relation to which the authority will not act

14.—(1) Where the proper officer is satisfied that a petition is not a valid petition, the proper officer shall, within the notice period, notify the National Assembly for Wales and the petition organiser (if any) of his determination and of the reasons for that determination.

(2) Where the authority has made a determination under regulation 8(8) the proper officer shall, within the notice period, notify the National Assembly for Wales and the petition organiser of the authority's determination and the reasons for that determination.

(3) In a case to which paragraph (1) applies, the authority shall publish in at least one newspaper circulating in its area a notice which contains a statement—

- (a) that a petition has been received which has been determined to be an invalid petition;
- (b) of the reasons for that determination;
- (c) of the constitutional change sought or, as the case may be, treated as sought, by the petition;
- (d) of the petition date;
- (e) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge; and
- (f) of the address of the authority's principal office.

(4) Where a petition is invalid only because it does not comply with regulation 9(1)(a), the notification under paragraph (1) and the statement to be published by the authority under paragraph (3) shall also include a statement that the invalid petition may be amalgamated with any subsequent petitions which are submitted to the authority.

(5) In a case to which paragraph (2) applies, the authority shall publish in at least one newspaper circulating in its area a notice which contains a statement—

- (a) that a valid petition has been received;
- (b) that the authority will not take any action in relation to that petition on account of it having made a determination under regulation 8(8) of these Regulations;
- (c) of the reasons for that determination;
- (d) of the constitutional change sought by the petition;
- (e) of the petition date;
- (f) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge; and
- (g) of the address of the authority's principal office.

Restrictions relating to publicity

15.—(1) An authority shall not incur any expenditure for the purpose of—

- (a) publishing any material which, in whole or in part, appears designed to influence local government electors in deciding whether or not to sign a petition under this Part;
- (b) assisting any person to publish any such material; or
- (c) influencing or assisting any person to influence, by any other means, local government electors in deciding whether or not to sign a petition under this Part.

(2) Nothing in paragraph (1) shall be taken to prevent an authority from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so) any factual information so far as it is presented fairly.

(3) In determining for the purposes of paragraph (2) whether any information is presented fairly, regard shall be had to any guidance for the time being issued by the National Assembly for Wales under section 38.

Timing of referendum

16.—(1) Subject to paragraphs (2) and (3) and regulation 21, a referendum in consequence of a valid petition shall be held not later than—

- (a) the end of the period of six months beginning with the petition date; or
- (b) the end of the period of two months beginning with the date on which regulations under section 45 (with respect to the referendum) come into force, whichever is the later.

(2) A referendum shall not be held before the end of the period of two months beginning with the date on which proposals and a statement are sent to the National Assembly for Wales in accordance with regulation 17(9).

(3) Paragraph (1) shall not apply where the National Assembly for Wales holds a referendum in exercise of the power conferred by regulation 25.

(4) A referendum under this Part may not be held on—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(4) in Wales, or
- (c) any day appointed as a day of public thanksgiving or mourning.

Action before referendum

17.—(1) Before the holding of a referendum under this Part, the authority shall—

- (a) where the petition does not specify, or is treated as not specifying, the form proposed for the authority's executive—
 - (i) subject to paragraph (2), decide which form the executive is to take; and
 - (ii) decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive; or
- (b) where the petition specifies the form proposed for the authority's executive, decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.

(2) The form of executive determined under paragraph (1)(a)(i) must include an elected mayor.

(3) Before the holding of a referendum under this Part, the authority shall also—

- (a) draw up proposals for the operation of executive arrangements; and
- (b) draw up outline fall-back proposals.

(4) Before drawing up proposals under paragraph (3)(a) and (b) the authority shall take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(5) The authority's proposals under paragraph (3)(a) shall include—

- (a) such details of the executive arrangements as the National Assembly for Wales may direct,

- (b) a timetable with respect to the implementation of the proposals, and
 - (c) details of any transitional arrangements which are necessary for the implementation of the proposals.
- (6) In drawing up proposals under paragraph (3)(a) the authority shall consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (7) The authority's proposals under paragraph (3)(b)—
- (a) where the authority is not then operating executive arrangements or alternative arrangements—
 - (i) shall include such details of the executive arrangements or alternative arrangements to which they relate as the National Assembly for Wales may direct;
 - (ii) shall include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected; and
 - (iii) may include, as the authority's outline fall-back proposals, any proposals under subsection (1) of section 28 (approval of outline fall-back proposals) approved by the National Assembly for Wales;
 - (b) where the authority is then operating executive arrangements or alternative arrangements shall consist of a summary of those arrangements.
- (8) In drawing up proposals under paragraph (3)(a) and (b) the authority shall have regard to any guidance for the time being issued by the National Assembly for Wales under section 38.
- (9) Not later than two months before the date on which the referendum is to be held, the authority shall send to the National Assembly for Wales—
- (a) a copy of the proposals drawn up under paragraph (3)(a) and (b); and
 - (b) a statement which describes—
 - (i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and
 - (ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.
- (10) The authority shall comply with any directions given by the National Assembly for Wales for the purposes of this regulation.

PART III

DIRECTIONS AND REFERENDUMS

Circumstances in which the National Assembly for Wales may require referendum

18.—(1) The National Assembly for Wales may by a direction in writing to the authority, require the authority, subject to paragraphs (3) and (4), to hold a referendum on whether it should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction—

- (a) where it appears to it that the circumstances are as mentioned in any paragraph of Schedule 2 to these Regulations;

- (b) where it has rejected an authority's application under section 28 (approval of outline fall-back proposals);
 - (c) where it appears to it that a direction is necessary to further compliance with the requirements of Part I of the Local Government Act 1999(5) (best value);
 - (d) if an authority request it to do so; or
 - (e) if a petition organiser requests it to do so.
- (2) Where the National Assembly for Wales gives a direction pursuant to paragraph (1)(a), it may specify in the direction—
- (a) the form of executive to be included in proposals drawn up under regulation 19(1)(c);
 - (b) details (whether or not in the form of proposals that are to be the subject of the referendum) of—
 - (i) the executive arrangements and their operation; and
 - (ii) any transitional arrangements necessary for the implementation of the proposals on which the referendum is to be held;
 - (c) a timetable with respect to the implementation of the proposals;
 - (d) the principles or matters to which the authority is to have regard in drawing up the proposals;
 - (e) except in a case where details in the form of proposals are specified pursuant to sub-paragraph (b), in relation to the consultation to be undertaken in drawing up those proposals—
 - (i) the persons with whom consultation is required;
 - (ii) the manner of the consultation; and
 - (iii) the matters about which those persons are to be consulted;
 - (f) the outline fall-back proposals;
 - (g) details (whether or not in the form of proposals) of the detailed fall-back proposals that are to be implemented if the proposals that are to be the subject of the referendum are rejected.
- (3) Where a form of executive involving an elected mayor is specified in a petition, a direction given in response to the request of the person who is the petition organiser in relation to that petition shall not require the authority to hold a referendum on proposals involving any other form of executive.
- (4) Where a form of executive involving an elected mayor is specified in a petition in consequence of which proposals are drawn up under regulation 17(3), a direction given pursuant to paragraph (1) (a) in respect of those proposals shall not require the authority to hold a referendum on proposals involving any other form of executive.

Action following direction

19.—(1) Subject to paragraphs (2) and (5), on receipt of a direction under regulation 18 in which a matter referred to in any of sub-paragraphs (a) to (e) of paragraph (2) of that regulation is specified, the authority to which the direction is given shall immediately—

- (a) abandon any arrangements made for the holding of a referendum (whether in consequence of a petition or an earlier direction of the National Assembly for Wales) to the extent that those arrangements are inconsistent with the arrangements necessary to conduct the referendum required by the direction;

- (b) abandon all action in respect of any petition received on or before the day on which they receive the direction;
 - (c) in accordance with paragraphs (1), (2) and (4) of regulation 20, draw up proposals for the operation of executive arrangements;
 - (d) in accordance with paragraphs (3) and (4) of regulation 20, draw up outline fall-back proposals; and
 - (e) make arrangements for the holding of a referendum on the proposals drawn up in accordance with sub-paragraph (c) (to the extent required to supplement any arrangements that may continue by virtue of sub-paragraph (a)).
- (2) Where, on the day on which the direction is received, the authority—
- (a) is in possession of the first petition submitted to it under Part II of these Regulations (including the single petition resulting from an amalgamation of petitions in accordance with regulation 8(1)), and
 - (b) has not complied with regulation 11(2) in relation to it,
- the authority shall satisfy itself as to the validity of the petition in accordance with Part II of these Regulations; and, subject to paragraph (3)(b), the direction shall be of no further effect.
- (3) Where, in a case to which paragraph (2) applies—
- (a) the authority is satisfied that the petition is valid, it shall comply with regulation 13; and the direction under regulation 18 shall be treated as revoked with effect from the date on which notice is given under regulation 13(1);
 - (b) the authority is satisfied that the petition is invalid, it shall comply with regulation 14; and the direction under regulation 18 shall be treated as effective from the date on which notice is given under regulation 14(1).
- (4) On receipt of a direction under regulation 18 in which a matter referred to in sub-paragraph (f) or (g) of paragraph (2) of that regulation is specified, the authority to which the direction is given shall immediately take the steps necessary to give effect to the direction.
- (5) Where—
- (a) the authority to which a direction under regulation 18 has been given receives a petition submitted to it under Part II of these Regulations (including the single petition resulting from an amalgamation of petitions in accordance with regulation 8(1));
 - (b) the petition is received before it has given notice of the date on which the referendum is to be held pursuant to the direction;
 - (c) the petition proposes a constitutional change different from that in relation to which the direction requires a referendum to be held; and
 - (d) the proper officer determines, in accordance with Part II, that the petition is a valid petition,
- the direction shall be treated as revoked with effect from the date of the proper officer's determination.
- (6) In a case to which paragraph (5) applies, the authority shall notify the National Assembly for Wales and the petition organiser of the date of the proper officer's determination; and shall include that notification in the notification required by regulation 13(1).

Requirements as to proposals

- 20.**—(1) In drawing up proposals under regulation 19(1)(c) the authority shall—
- (a) where the direction specifies details, a form of executive or a timetable, include those details, that form of executive or that timetable;

- (b) where the direction requires regard to be had to principles or matters, have regard to those principles or matters;
 - (c) where the direction requires consultation with specified persons, or in a specified manner or about specified matters, consult those persons, in that manner or about those matters, as the case may be;
 - (d) consider the extent to which its proposals, if implemented, are likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
 - (e) subject to sub-paragraphs (a) to (d)—
 - (i) decide which form the executive is to take;
 - (ii) decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive; and
 - (iii) take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (2) Without prejudice to paragraph (1)(a), proposals under regulation 19(1)(c) shall include—
- (a) such details of the executive arrangements as the National Assembly for Wales may direct,
 - (b) a timetable with respect to the implementation of the proposals, and
 - (c) details of any transitional arrangements which are necessary for the implementation of the proposals.
- (3) The authority's proposals under regulation 19(1)(d)—
- (a) where the authority is not then operating executive arrangements or alternative arrangements—
 - (i) may not be drawn up before the authority has taken reasonable steps to consult the local government electors for, and other interested persons in, its area;
 - (ii) shall include such details of the executive arrangements or alternative arrangements to which they relate as the National Assembly for Wales may direct;
 - (iii) shall include a timetable with respect to the implementation of the detailed fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected; and
 - (iv) may include, as the authority's outline fall-back proposals, any proposals under subsection (1) of section 28 (approval of outline fall-back proposals) approved by the National Assembly for Wales;
 - (b) where the authority is then operating executive arrangements or alternative arrangements, shall consist of a summary of those arrangements.
- (4) In drawing-up proposals under regulation 19(1)(c) and (d) an authority—
- (a) shall comply with any directions given by the National Assembly for Wales; and
 - (b) shall have regard to any guidance for the time being issued by the National Assembly for Wales under section 38.
- (5) Not later than two months before the date on which the referendum is to be held, the authority shall send to the National Assembly for Wales—
- (a) a copy of the proposals drawn up under regulation 19(1)(c) and (d); and
 - (b) a statement which describes—
 - (i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and

- (ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.

Time for holding referendum required by direction

21.—(1) Subject to paragraphs (2) to (4), a referendum required by a direction under regulation 18 shall be held not later than the end of the period of six months beginning with the date of the direction or, in a case to which paragraph (6) of regulation 7 applies, the date that is treated, in accordance with that paragraph, as the date of the direction.

(2) A referendum shall not be held before the end of the period of two months beginning with the date on which proposals and a statement are sent to the National Assembly for Wales in accordance with regulation 20(5).

(3) A referendum under this Part may not be held on—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Wales, or
- (c) any day appointed as a day of public thanksgiving or mourning.

(4) Paragraph (1) shall not apply where the National Assembly for Wales holds a referendum in exercise of the power conferred by regulation 25.

(5) Where the National Assembly for Wales—

- (a) in exercise of the power conferred by regulation 25, draws up outline fall-back proposals or proposals for the operation of executive arrangements; and
- (b) directs an authority to hold a referendum on those proposals,

the authority shall hold the referendum not later than the end of the period of two months beginning with the date of the National Assembly for Wales' direction.

Publicity for referendum required by direction

22.—(1) The authority to which a direction under regulation 18 is given shall, not later than one month after the date of the direction, publish in at least one newspaper circulating in its area a notice which—

- (a) sets out the terms of the direction; and
- (b) contains a statement—
 - (i) that a direction in the terms set out in the notice has been given by the National Assembly for Wales requiring a referendum to be held;
 - (ii) of the form of executive to be included in the proposals that are to be the subject of the referendum; and
 - (iii) that a referendum will be held.

(2) An authority may include in the notice to be published in accordance with paragraph (1), or may otherwise provide to any person (whether or not in pursuance of any duty to do so), any other factual information relating to the direction so far as it is presented fairly.

(3) In determining for the purposes of paragraph (2) whether any information is presented fairly, regard shall be had to any guidance for the time being issued by the National Assembly for Wales under section 38.

PART IV

ACTION TO BE TAKEN AFTER REFERENDUMS

Action where referendum proposals approved

23. If the result of a referendum held under Part II or in pursuance of a direction under Part III is to approve the proposals that were the subject of the referendum—

- (a) the authority shall implement the proposals that were the subject of the referendum in accordance with the timetable included in the proposals under regulation 17(3)(a) or, as the case may be, regulation 19(1)(c); and
- (b) where the authority is then operating executive arrangements that take a form that differs from those that were the subject of the referendum, section 29 (operation of, and publicity for, executive arrangements) shall apply for the purpose of enabling the authority to operate the executive arrangements that were the subject of the referendum as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances as if, for references to the arrangements, there were substituted references to the different executive arrangements that were the subject of the referendum.

Action where referendum proposals rejected

24.—(1) If the result of a referendum held under Part II or in pursuance of a direction under Part III is to reject the proposals that were the subject of the referendum—

- (a) the authority may not implement those proposals; and
 - (b) if the authority is not then operating alternative arrangements or executive arrangements, it shall draw up detailed fall-back proposals which are based on its outline fall-back proposals; or
 - (c) if the authority is then operating executive arrangements, it shall continue to operate those arrangements until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements; or
 - (d) if the authority is then operating alternative arrangements, it shall continue to operate those arrangements until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements.
- (2) Detailed fall-back proposals shall comprise—
- (a) the details (if any) specified in a direction under regulation 18(1);
 - (b) such other details of the executive arrangements or alternative arrangements to which they relate as the National Assembly for Wales may direct; and
 - (c) details of any transitional arrangements which are necessary for the implementation of the fall-back proposals.
- (3) In drawing up detailed fall-back proposals the authority—
- (a) shall comply with any directions given by the National Assembly for Wales; and
 - (b) where those proposals involve executive arrangements shall, unless a direction has been given in relation to that matter, decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.
- (4) Except to the extent that detailed fall-back proposals involving executive arrangements or alternative arrangements are specified in a direction under regulation 18(1)—

- (a) before drawing up proposals in accordance with paragraph (1)(b) above, the authority shall take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area; and
- (b) in drawing up those proposals, the authority shall consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(5) Where detailed fall-back proposals are drawn up in accordance with paragraph (1)(b), the authority shall send a copy of them to the National Assembly for Wales.

(6) Subject to paragraph (7), the authority shall implement detailed fall-back proposals in accordance with the timetable included pursuant to regulation 17(7)(a)(ii) or, as the case may be, regulation 20(3)(a)(iii).

(7) Where detailed fall-back proposals are based on proposals approved under subsection (1) of section 28 (approval of outline fall-back proposals), the timetable referred to in paragraph (6) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

PART V

DEFAULT POWERS OF THE NATIONAL ASSEMBLY FOR WALES

Default powers of the National Assembly for Wales

25. The National Assembly for Wales may, in the event of any failure by an authority to take any action which may or must be taken by the authority under any of Parts II to IV, itself take that action.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6).

21st June 2001

Dafydd Elis Thomas
The Presiding Officer of the National Assembly