

WELSH STATUTORY INSTRUMENTS

**2008 No. 1848**

**The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008**

**Title, commencement and revocation**

1.—(1) The title of these Regulations is the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008.

(2) These Regulations come into force 14 days after the day on which they are made.

(3) These Regulations apply to the holding of referendums by local authorities in Wales.

(4) The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 are revoked <sup>M1</sup>.

**Marginal Citations**

**M1** [S.I. 2004/870](#) (W.85), amended by [S.I. 2005/3302](#) (W.256).

**Interpretation**

2.—(1) In these Regulations—

“the 1983 Act” (“*Deddf 1983*”) means the Representation of the People Act 1983 <sup>M2</sup>;

“the 1985 Act” (“*Deddf 1985*”) means the Representation of the People Act 1985 <sup>M3</sup>;

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000 <sup>M4</sup>;

“counting observer” (“*arsylwr cyfrif*”) means a person appointed by a counting officer under rule 18(2) of the Local Government Act Referendums Rules;

“counting officer” (“*swyddog cyfrif*”) means a person referred to in regulation 9;

“elected mayor” (“*maer etholedig*”), in relation to a local authority, means an individual elected as mayor of the local authority by the local government electors for the local authority's area in accordance with provisions made by or under Part II of the 2000 Act;

“the Elections Act” (“*Deddf yr Etholiadau*”) means the Political Parties, Elections and Referendums Act 2000 <sup>M5</sup>;

**F1** .....

“further referendum” (“*refferendwm pellach*”) means a referendum held in pursuance of an order under regulation 13(3);

“the Local Government Act Referendums Rules” (“*Rheolau Refferenda'r Ddeddf Llywodraeth Leol*”) means the rules set out in Schedule 3 to these Regulations;

“local government election” (“*etholiad llywodraeth leol*”) must be construed in accordance with section 203(1) of the 1983 Act;

“mayoral election” (“*etholiad maerol*”) must be construed in accordance with the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 <sup>M6</sup>;

“outline fall-back proposals” (“*cynigion wrth gefn amlinellol*”)—

- (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 following 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 local authority are then operating executive or alternative arrangements, a summary of those arrangements;
  - (ii) in any other case, an outline of the proposals specified in the order that the local 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 local authority's existing executive arrangements or existing alternative arrangements (as the case may be);

“the Petitions and Directions Regulations” (“*Rheoliadau Deisebau a Chyfarwyddiadau*”) means the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 <sup>M7</sup>;

“petition organiser” (“*trefnydd deiseb*”), in relation to a referendum, means a person who is treated for the purposes of regulation 10(4) or (5) (formalities of petition) (as the case may be) 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 local authority by or in respect of which the referendum is held <sup>M8</sup>;

“polling observer” (“*arsylwr pleidleisio*”) means a person appointed by a counting officer under rule 18(1) of the Local Government Act Referendums Rules;

“proper officer” (“*swyddog priodol*”) must be construed in accordance with section 270(3) of the Local Government Act 1972 <sup>M9</sup>;

“proposals date” (“*dyddiad y cynigion*”)—

- (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 the 2000 Act <sup>M10</sup>,
 are sent to the Welsh Ministers; and
- (b) in relation to a further referendum, means the day which falls two months before the day on which the poll at the further referendum is held;

“referendum” (“*refferendwm*”) 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” (“*cyfnod y refferendwm*”), 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;

“the Representation of the People Regulations” (“*Rheoliadau Cynrychiolaeth y Bobl*”) means the Representation of the People (England and Wales) Regulations 2001 <sup>M11</sup>;

“the RP Act 2000” (“*Deddf CB 2000*”) means the Representation of the People Act 2000 <sup>M12</sup>; and

“voting area” (“*ardal y bleidlais*”) 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.

#### Textual Amendments

- F1** Words in reg. 2(1) omitted (31.1.2020) by virtue of [The Elections \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/115\)](#), regs. 1, **4(2)** (as read with [The European Union \(Withdrawal Agreement\) Act 2020 \(Disapplication of the Deferral of Subordinate Legislation\) \(Wales\) \(EU Exit\) Regulations 2020 \(S.I. 2020/93\)](#), reg. 2)

#### Marginal Citations

- M2** 1983 c. 2.  
**M3** 1985 c. 50.  
**M4** 2000 c. 22.  
**M5** 2000 c. 41.  
**M6** [S.I. 2007/1024](#).  
**M7** [S.I. 2001/2292 \(W.180\)](#) as amended by [S.I.2003/398 \(W.55\)](#).  
**M8** 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.  
**M9** 1972 c. 70.  
**M10** See the Local Authorities (Changing Executive Arrangements and Alternative Arrangements (Wales) Regulations 2004 ([S.I. 2004/3158 \(W.275\)](#)).  
**M11** [S.I. 2001/341](#); amended by [S.I. 2001/1700](#), [2002/1871](#), [2004/226](#), [2006/752](#) and [2006/2910](#).  
**M12** 2000 c. 2.

### The statement and the question to be asked in a referendum

3. Where the proposals in relation to which a referendum is to be held involve—
- (a) a mayor and cabinet executive, the statement to precede the question (“the statement”) and the question to be asked in that referendum are to be in the form set out in paragraph 1 of Schedule 1 to these Regulations;

- (b) a mayor and council manager executive, the statement and the question to be asked in that referendum are to be in the form set out in paragraph 2 of that Schedule;
- (c) a leader and cabinet executive, the statement and the question to be asked in that referendum are to be in the form set out in paragraph 3 of that Schedule.

### **Publicity and other information in connection with referendums**

4.—(1) The proper officer must, as soon as practicable after the proposals date, 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 33,
 have been sent to the Welsh Ministers;
- (b) a description of the main features of the proposals 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) of the question to be asked in the referendum,
  - (iv) that the referendum will be conducted in accordance with procedures similar to those used at local government elections,
  - (v) of the referendum expenses limit (as defined in regulation 6(1)) that will apply in relation to the referendum and the number of local government electors by reference to which that limit has been calculated,
  - (vi) of the address and times at which a copy of the proposals, and of the local authority's outline fall-back proposals, may be inspected, and
  - (vii) of the procedures for obtaining a copy of the proposals and outline fall-back proposals.

(2) Unless the notice required to be published by paragraph (1) (“the first notice”) is published fewer than 56 days before the date of the referendum, the proper officer must publish a second notice containing the particulars specified in paragraph (1)(c)(i) to (vii).

- (3) The second notice is to be published—
  - (a) in the same newspaper or newspapers as were used for the publication of the first notice, and
  - (b) no more than 55 days and no less than 28 days before the date of the referendum.

(4) The local authority must 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 must secure that sufficient copies are available for persons who wish to obtain copies.

(5) The local 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 or the referendum so far as it is presented fairly.

(6) In determining for the purposes of paragraph (5) whether any information is presented fairly, regard is, in accordance with section 38, to be had to any guidance for the time being issued by the Welsh Ministers 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) No material to which this regulation applies is to 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,
- (b) the publication of information relating to the holding of the poll at the referendum, or
- (c) the publication of press notices containing factual information where the sole purpose of the publication is to refute or correct any inaccuracy in material published by a person other than the local authority.

(4) In this regulation “publish” (“*cyhoeddi*”) means make available to the public at large, or to any section of the public, in whatever form and by whatever means (including, in particular, by inclusion in any programme included in a programme service within the meaning of the Broadcasting Act 1990<sup>M13</sup>); and “publication” (“*cyhoeddiad*”) is to be construed accordingly.

#### **Marginal Citations**

**M13** 1990 c. 42. Section 201, containing the definition of programme service, was amended by section 360 of and Schedule 19 to the [Communications Act 2003 \(c. 21\)](#).

### **General restriction on referendum expenses**

6.—(1) In this regulation and regulation 7—

“campaign organiser” (“*trefnydd ymgyrch*”) means the individual or body by whom, or on whose behalf, referendum expenses are incurred (including expenses treated as incurred) in connection with a referendum campaign;

“referendum campaign” (“*ymgyrch refferendwm*”) means a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in a referendum;

“referendum expenses” (“*treuliau refferendwm*”) means the expenses incurred by or on behalf of any individual or body during the referendum period for referendum purposes in respect of any of the matters set out in paragraphs 1 to 7 of Schedule 2 to these Regulations, as read in accordance with paragraph 8 of that Schedule;

“referendum expenses limit” (“*cyfyngiad treuliau refferendwm*”) means the aggregate of £2,362 and the amount found by multiplying by 5.9 pence the number of entries in the relevant register;

“for referendum purposes” (“*at ddibenion refferendwm*”) means—

(a) in connection with the conduct or management of any campaign conducted with a view to promoting or procuring a particular outcome in relation to the question asked in the referendum, or

(b) otherwise in connection with promoting or procuring any such outcome;

“the relevant register” (“*y gofrestr berthnasol*”) means the register (or registers) of local government electors published under section 13 (publication of registers) of the 1983 Act <sup>M14</sup> after the conclusion of the canvass conducted under section 10 of that Act <sup>M15</sup> in the year immediately preceding that in which the referendum is held, which has (or have) effect in the area of the local authority by which or as regards which the referendum is held (whether or not the persons to whom those entries relate are entitled to vote in the referendum).

(2) The total referendum expenses incurred, or, in accordance with regulation 7, treated as incurred, by or on behalf of any individual or body must not exceed the referendum expenses limit.

(3) Where any referendum expenses are incurred in excess of the referendum expenses limit, a person who knew or ought reasonably to have known that that limit would be exceeded, or who, without reasonable excuse, authorises another person to exceed that limit, is guilty of an offence.

(4) Where information is given to the Director of Public Prosecutions that an offence under paragraph (3) has been committed, it is the duty of the Director of Public Prosecutions to make such inquiries and institute such prosecutions as the circumstances of the case appear to the Director of Public Prosecutions to require.

(5) Where an offence under paragraph (3) which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.

(6) A person who commits an offence under paragraph (3) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding [<sup>F2</sup>the general limit in a magistrates’ court] or both, or

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 12 months or both.

(7) In relation to an offence committed before the commencement of [<sup>F3</sup>paragraph 24(2) of Schedule 22 to the Sentencing Act 2020], the reference in paragraph (6)(a) to [<sup>F4</sup>the general limit in a magistrates’ court] is to be read as a reference to 6 months.

(8) Nothing in paragraph (2) affects the right of any creditor who, when the expense was incurred, was ignorant of that expense being in contravention of that paragraph.

#### Textual Amendments

**F2** Words in [reg. 6\(6\)\(a\)](#) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(2), [Sch. Pt. 2 table](#)

**F3** Words in [reg. 6\(7\)](#) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 446\(1\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**F4** Words in [reg. 6\(7\)](#) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(2), [Sch. Pt. 2 table](#)

### Marginal Citations

- M14** 1983 c. 2; section 13 was substituted for section 13 as originally enacted by paragraph 6 of Schedule 1 to the [Representation of the People Act 2000 \(c. 2\)](#).
- M15** Section 10 was substituted together with section 10A for section 10 as originally enacted by paragraph 4 of Schedule 1 to the [Representation of the People Act 2000 \(c. 2\)](#) and amended by paragraphs 5 and 105 of Schedule 1 to the [Electoral Administration Act 2006 \(c. 22\)](#).

### Notional referendum expenses

7.—(1) This regulation applies where—

- (a) property, services or facilities is or are provided for the use or benefit of any person either—
  - (i) free of charge, or
  - (ii) at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the services or facilities; and
- (b) the property, services or facilities is or are made use of by or on behalf of that person in circumstances such that, if any expenses were to be (or are) actually incurred by that person or on behalf of that person in respect of that use, they would be (or are) referendum expenses incurred by that person or on that person's behalf.

(2) Subject to paragraph (5), where this regulation applies, an amount of referendum expenses determined in accordance with paragraph (3) is, unless it is not more than £200, to be treated for the purposes of regulation 6 as incurred by that person during the period for which the property, services or facilities is or are made use of as mentioned in paragraph (1)(b).

(3) The amount mentioned in paragraph (2) is such proportion of either—

- (a) the commercial rate for the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided free of charge), or
- (b) the difference between that commercial rate and the amount of the expenses actually incurred by or on behalf of that person in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, services or facilities as mentioned in paragraph (1)(b).

(4) Where the services of an employee are made available by the employee's employer for the use or benefit of a person, the amount which is to be taken as constituting the commercial rate for the provision of those services is the amount of the remuneration or allowances payable to the employee by the employee's employer in respect of the period for which the employee's services are made available (but that amount is not to include any amount in respect of contributions or other payments for which the employer is liable in respect of the employee).

(5) No amount of referendum expenses is to be regarded as incurred by virtue of paragraph (2) in respect of the provision by any individual of the individual's own services which the individual provides voluntarily in the individual's own time and free of charge.

### Conduct of referendum

8.—(1) A referendum is to be conducted in accordance with the Local Government Act Referendums Rules (as contained in Schedule 3 to these Regulations).

(2) The provisions mentioned in the first column of Tables 1 to 5 of Schedule 4 to these Regulations have effect in relation to referendums, subject to the modifications specified in that Schedule and to any contrary provision of these Regulations.

## Counting officer

**9.—**(1) Functions conferred by these Regulations on the counting officer are to be exercised in each voting area by the person who is for the time being the returning officer at elections of councillors for that area under section 35(1A)(a) (returning officers: local elections) of the 1983 Act <sup>M16</sup>.

(2) It is the counting officer's general duty at the referendum to do all such acts and things as may be necessary for effectually conducting the referendum in the manner provided by these Regulations.

(3) The counting officer must also appoint and pay such persons as may be necessary for the purpose of the counting of the votes.

### Marginal Citations

**M16** 1983 c. 2; subsection (1A) was inserted by the Local Government (Wales) Act 1994, section 66(6), Schedule 16, paragraph 68(7).

## Result of referendum or further referendum

**10.—**(1) This regulation is subject to regulations 12 and 13.

(2) If the majority of the votes cast in a referendum other than a further referendum are “yes” votes, the result of the referendum is—

- (a) for the purposes of section 27(7), to approve the local authority's proposals under section 25;
- (b) for the purposes of regulation 23 (action where referendum proposals approved) of the Petitions and Directions Regulations or, as the case may be, the comparable provisions of any other regulations or order made under any provision of Part II of the 2000 Act, to approve the proposals that were the subject of the referendum.

(3) If the majority of the votes cast in a referendum other than a further referendum are “no” votes, the result of the referendum is—

- (a) for the purposes of section 27(8), to reject the local authority's proposals under section 25;
- (b) for the purposes of regulation 24 (action where referendum proposals rejected) of the Petitions and Directions Regulations or, as the case may be, the comparable provisions of any other regulations or order made under any provision of Part II of the 2000 Act, to reject the proposals that were the subject of the referendum.

(4) If the majority of the votes cast in a further referendum are “yes” votes, the result of the referendum is to approve the continuation of the local authority's existing executive arrangements or their existing alternative arrangements (as the case may be).

(5) If the majority of the votes cast in a further referendum are “no” votes, the result of the referendum is to reject the continuation of the local authority's existing executive arrangements or their existing alternative arrangements (as the case may be).

(6) In a case to which paragraph (5) applies, section 27(8) to (12) is then to apply as if the result of the further referendum was the rejection of the local authority's proposals under section 25, but subject—

- (a) in section 27(8)(b), to the insertion after “outline fall-back proposals” of “that were proposed at the time of the referendum”,
- (b) in section 27(9), to the omission of “outline fall-back proposals or”, and
- (c) in section 27(10), to the substitution for “Outline fall-back proposals and detailed” of “Detailed”.



## Procedures for questioning referendum

**11.**—(1) A referendum under these Regulations may be questioned by petition (“a referendum petition”)—

- (a) on the ground that the result of the referendum was not in accordance with the votes cast,
- (b) on the ground that the referendum was avoided by such corrupt or illegal practices, within the meaning of the 1983 Act, as are relevant to referendums by virtue of regulation 8 or paragraph (8),
- (c) on the grounds provided by section 164 (avoidance of election for general corruption etc.) of the 1983 Act, as applied for the purposes of these Regulations by paragraph (8), or
- (d) subject to paragraph (3), on the ground that a payment of money or other reward has been made or promised since the referendum in pursuance of a corrupt or illegal practice relevant to the referendum by virtue of regulation 8 or paragraph (8).

(2) A referendum petition on any of the grounds specified in paragraph (1)(a) to (c) must be presented not later than 21 days after the day on which the referendum was held.

(3) A referendum petition on the ground mentioned in paragraph (1)(d) may be presented only with the leave of the High Court.

(4) An application for leave must be made, not later than 28 days after the date of the alleged payment or promise, by application notice to the court at such time and place as the court may appoint.

(5) Not less than seven days before the day so appointed the applicant must—

- (a) serve the application notice on the respondent and the Director of Public Prosecutions and lodge a copy in the election petitions office, and
- (b) publish notice of the intended application in at least one newspaper circulating in the voting area for the referendum to which the application relates.

(6) The application notice must state the grounds on which the application is made.

(7) A referendum petition is to be tried by an election court, that is to say, a court constituted under section 130 (election court for local election in England and Wales, and place of trial) of the 1983 Act for the trial of an election petition, as applied by paragraph (8).

(8) Schedule 5 to these Regulations contains provisions which have effect in relation to the questioning of a referendum as they have effect in relation to the questioning of an election under the Local Government Act 1972, subject to the modifications specified in that Schedule and to any contrary provision of these Regulations.

(9) The Election Petition Rules 1960<sup>M17</sup> have effect in relation to a referendum petition as they have effect in relation to a local election petition within the meaning of those Rules, subject to the modifications specified in Schedule 6 to these Regulations and to any contrary provision of these Regulations.

### Marginal Citations

**M17** S.I. 1960/543; amended by S.I. 1985/1278, 1999/1352 and 2003/972.

## Immediate consequences of referendum petitions

**12.**—(1) This regulation, apart from paragraph (8), applies where—

- (a) a referendum petition is presented on any of the grounds mentioned in regulation 11(1) (a) to (c), or

- (b) leave is granted to the presentation of a referendum petition brought under the ground mentioned in regulation 11(1)(d).

(2) Where this regulation applies—

(a) in relation to a referendum—

(i) at which the statement and the question asked were in the form set out in paragraph 3 of Schedule 1, and

(ii) in which the majority of the votes cast are “yes” votes; and

(b) before the local authority have passed a resolution under section 29,

the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition.

(3) Where this regulation applies—

(a) in relation to a referendum—

(i) at which the statement and the question asked were in the form set out in paragraph 3 of Schedule 1, and

(ii) in which the majority of the votes cast are “yes” votes, and

(b) after the local authority have passed a resolution under section 29,

the local authority must continue to operate the executive arrangements that are the subject of that resolution.

(4) Where this regulation applies—

(a) in relation to a referendum—

(i) at which the statement and the question asked were in the form set out in paragraph 1 or 2 of Schedule 1, and

(ii) in which the majority of the votes cast are “yes” votes; and

(b) without an election for the return of an elected mayor having taken place in consequence of the referendum,

the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition.

(5) Where this regulation applies—

(a) in relation to a referendum in which the majority of the votes cast are “no” votes; and

(b) the local authority's outline fall-back proposals are based on the executive or alternative arrangements which they were operating at the date of the referendum, they must continue to operate those arrangements.

(6) Where this regulation applies but paragraph (5) does not apply—

(a) in relation to a referendum in which the majority of the votes cast are “no” votes, and

(b) before the local authority have passed a resolution under section 29 (operation of, and publicity for, executive arrangements) or section 33 (operation of alternative arrangements),

the local authority must take no further steps in consequence of the referendum until the election court has certified its determination in the matter of the referendum petition.

(7) Where this regulation applies—

(a) in relation to a referendum in which the majority of the votes cast are “no” votes, and

(b) after the local authority have passed a resolution under section 29 or 33,

the local authority must continue to operate the executive arrangements or the alternative arrangements (as the case may be) that are the subject of that resolution.

(8) Where leave is granted to the presentation of a referendum petition brought under the ground mentioned in regulation 11(1)(d)—

- (a) in relation to a referendum—
  - (i) at which the statement and the question asked were in the form set out in paragraph 1 or 2 of Schedule 1, and
  - (ii) in which the majority of the votes cast are “yes” votes; and
- (b) after an election for the return of an elected mayor has taken place in consequence of the referendum,

the elected mayor is to continue in office.

### **Determination of referendum petitions and subsequent procedures**

**13.**—(1) Where an election court certifies, as its determination of a referendum petition, that the result of the referendum declared under regulation 10 is or is not in accordance with the votes cast (as the case may be), any reference (in whatever terms) in the timetable—

- (a) included in the local authority's proposals under section 25;
- (b) included in their proposals under regulation 17(3)(a) or 19(1)(c) of the *Petitions and Directions Regulations*;
- (c) prepared in pursuance of section 27(4) or regulation 17(7)(a)(ii) or 20(3)(a)(iii) of those *Regulations*; or
- (d) prepared in pursuance of any other regulations or an order made under any provision of Part II (arrangements with respect to executives etc.) of the 2000 Act,

to the date of the result of the referendum is to be construed as a reference to the date on which the election court certifies its determination.

(2) Where an election court certifies, as its determination of a referendum petition specifying any of the grounds mentioned in regulation 11(1), that the referendum was avoided, the local authority concerned must, not earlier than two months and not later than three months after the date on which the election court has certified that determination, hold another referendum.

(3) Where the circumstances are as mentioned in regulation 12(8)(a) and (b), the court must—

- (a) dismiss the petition, or
- (b) allow the petition,

and, where the court allows the petition, it must declare the referendum to be tainted, and order that a further referendum be held.

(4) Where the election court makes the order mentioned in paragraph (3), the local authority must hold the further referendum as soon as practicable after the expiration of the period of five years beginning with the date on which the tainted referendum was held.

(5) If the majority of the votes cast in a further referendum are “yes” votes—

- (a) where the local authority are operating executive arrangements, they must continue to operate those arrangements unless and until they are authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of their existing executive arrangements, and
- (b) where the local authority are operating alternative arrangements, they must continue to operate those arrangements unless and until they are authorised to operate different

alternative arrangements or authorised or required to operate executive arrangements in place of their existing alternative arrangements.

- (6) If the majority of votes cast in the further referendum are “no” votes, the local authority—
- (a) must implement the proposals that were their outline fall-back proposals at the time of the tainted referendum, and
  - (b) subject to paragraphs (7) and (8), section 27(13) (referendum in case of proposals involving elected mayor) applies to the implementation of detailed fall-back proposals as if those outline fall-back proposals were outline fall-back proposals in the event that proposals under section 25 (proposals) are rejected in a referendum under section 27.
- (7) Where the authority's outline fall-back proposals are the executive or alternative arrangements which they were operating at the date of the tainted referendum, section 27(13) applies (as mentioned in paragraph (6)) as if, for “in accordance with the timetable mentioned in subsection (4)”, there were substituted “as soon as practicable”.
- (8) Where the authority's outline fall-back proposals are executive arrangements which involve a form of executive for which a referendum is not required—
- (a) section 29(1) (operation of, and publicity for, executive arrangements) applies for the purpose of enabling the authority to operate the executive arrangements set out in their detailed fall-back proposals as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances, and
  - (b) section 29(2) applies as if in paragraph (b) for sub-paragraph (i) there were substituted—
    - “(i) states that, in consequence of the rejection in a further referendum of the authority's existing executive arrangements, the authority have resolved to operate the different executive arrangements that were described in their outline fall-back proposals at the time of the referendum.”.
- (9) Where the local authority's outline fall-back proposals are alternative arrangements —
- (a) section 33(2) (operation of alternative arrangements) applies for the purpose of enabling the local authority to operate the alternative arrangements set out in their detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate alternative arrangements in other circumstances; and
  - (b) section 29(2) applies as if, in paragraph (b), for sub-paragraph (i) there were substituted;
    - “(i) states that, in consequence of the rejection in a further referendum of the local authority's existing executive arrangements the local authority have resolved to operate the alternative arrangements that were described in their outline fall-back proposals at the time of the referendum.”.
- (10) These Regulations, except where the context otherwise requires, apply (so far as relevant) to the conduct of the further referendum as they apply to the conduct of any other referendum subject to—
- (a) in regulation 4—
    - (i) the omission of paragraph (1)(a),
    - (ii) in paragraph (1)(b), the substitution for “the proposals” of “the local authority's existing executive or alternative arrangements”.
    - (iii) in paragraph (1)(c)(vi), the substitution for “a copy of the proposals” of “a document in which are set out the main features of the authority's existing executive or alternative arrangements”.
    - (iv) in paragraph (1)(c)(vii), the substitution for “the proposals and” of “that document and those”.
    - (v) after paragraph (1)(c)(vii), the insertion of—

- “(viii) if it be the case, that the referendum is being held in consequence of the determination of an election court that the referendum last held in the authority's area was void or, as the case may be, declared to be tainted by reason of a payment of money or other reward made or promised since the referendum in pursuance of a corrupt or illegal practice.”,
- (vi) in paragraph (4), the substitution for “a copy of their proposals” of “a document in which are set out the main features of the authority's current executive or alternative arrangements ”,
- (vii) in paragraph (5), the substitution, for “the proposals”, of “ the main features of the local authority's current executive or alternative arrangements ”, and
- (b) the substitution of paragraph 1 of Schedule 1 and the first form to appear in the Appendix to the Local Government Act Referendums Rules, by —

"At the mayoral referendum held on *[insert date as appropriate]* the electorate for *[insert name of local authority]* approved the proposal that a mayor should lead that *[insert "county" or "county borough" as appropriate]* and be responsible for making decisions about council services together with a "cabinet" of elected councillors appointed by that mayor. On *[insert date as appropriate]* the Election Court declared that mayoral referendum to be tainted. The Election Court ordered that a further referendum be held.

Should the majority of votes cast in this further referendum be "no" votes, *[insert name of local authority]* will implement *[executive]\* [alternative]\** arrangements consisting of *[a leader elected by the authority and a cabinet of elected councillors]\* [an elected mayor and council manager appointed as such by the authority]\* [a politically balanced board]\** responsible for making decisions about local council services.

*\*delete as appropriate*

.....

Question

Are you in favour of *[insert name of local authority]* continuing to be led by a mayor together with a cabinet of elected councillors?"; and

- (c) the substitution of paragraph 2 of Schedule 1 and the second form to appear in the Appendix to the Local Government Act Rules by —

"At the mayoral referendum held on *[insert date as appropriate]* the electorate for *[insert name of local authority]* approved the proposal that a mayor should lead that *[insert "county" or "county borough" as appropriate]* and be responsible for making decisions about council services together with an officer of that *[insert "county" or "county borough" as appropriate]* appointed as "council manager" by elected councillors. On *[insert date as appropriate]* the Election Court declared that mayoral referendum to be tainted. The Election Court ordered that a further referendum be held.

Should the majority of votes cast in this further referendum be "no" votes, *[insert name of local authority]* will implement *[executive]\* [alternative]\** arrangements consisting of *[an elected mayor and a cabinet of elected councillors appointed by the mayor]\* [a leader elected by the authority and a cabinet of elected councillors]\* [a politically balanced board]\** responsible for making decisions about local council services.

*\*delete as appropriate*

.....  
Question

Are you in favour of *[insert name of local authority]* continuing to be led by a mayor together with a council manager?".

(11) On the substantive hearing of a referendum petition for which leave has been granted where the circumstances are as mentioned in any paragraph of regulation 12 other than paragraph (8), the election court must either—

- (a) dismiss the petition, or
- (b) allow the petition,

and, where the court allows the petition, it must declare the referendum avoided.

**Time**

14.—(1) The days mentioned in paragraph (2) are to be disregarded in calculating any period of time for the purposes of regulation 4(1).

- (2) 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 <sup>M18</sup> in Wales, and
- (c) any day appointed as a day of public thanksgiving or mourning.

**Marginal Citations**

**M18** 1971 c. 80.

**Advertisements**

**15.** The Town and Country Planning (Control of Advertisements) Regulations 1992 <sup>M19</sup> have effect in relation to the display on any site in a voting area of an advertisement relating specifically to the referendum as they have effect in relation to the display of an advertisement relating specifically to a local government election.

**Marginal Citations**

**M19** S.I. 1992/666. as amended by paragraph 233 of Schedule 22 to the [Environment Act 1995 \(c. 25\)](#) and [S.I. 1994/2351](#), 1996/525, 1997/2971, 1999/1810, 2001/1149, 2001/4050, 2003/2155 and 2005/3050.

**Non-domestic rating: premises used for referendum purposes**

**16.** In relation to premises in a voting area, section 65(6) of the Local Government Finance Act 1988 <sup>M20</sup> (occupation for election meetings and polls) has effect as if—

- (a) the reference to public meetings in furtherance of a person's candidature at an election included a reference to public meetings promoting a particular result in the referendum, and
- (b) the reference to the use by a returning officer for the purpose of taking the poll in an election included a reference to the use for the purpose of taking the poll in the referendum by a person exercising functions of a counting officer in accordance with regulation 9.

**Marginal Citations**

**M20** 1988 c. 41.

*Brian Gibbons*  
Minister for Social Justice and Local  
Government, one of the Welsh Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008.