
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact Regulations of the same name made in 2004 (S.I. 2004/870 (W.85)) (“the 2004 Regulations”), with necessary amendments, to make provision for the conduct of referendums to be held under section 27 of the Local Government Act 2000 (c. 22) (“the 2000 Act”), or by virtue of regulations or an order made under any provision of Part II of the 2000 Act. These Regulations apply in relation to Wales. The referendums will relate to the question of whether a county or county borough council should adopt executive arrangements that include a mayor and cabinet executive, a mayor and council manager executive or a leader and cabinet executive. The Regulations also prescribe certain forms for use at a referendum under the Welsh Language Act 1993.

The principal changes that are made to the 2004 Regulations are, first, to make the changes necessary to implement the changes made by the Electoral Administration Act 2006 (c. 22) (“the 2006 Act”) in this context, and second, to set out the rules for the conduct of referendums in full.

Regulation 3 and Schedule 1 prescribe the form of words of the statement and the question to be asked in the referendum.

Regulation 4 requires public notice to be given of the local authority’s proposals under section 25 of the 2000 Act or, as the case may be, under regulation 17 or 19 of the Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 (“the Petitions and Directions Regulations”), under regulations under section 30 or 33 of the 2000 Act, or an order under section 36 of that Act. The notice must specify the date of the referendum, various matters relating to the conduct of the referendum, and the availability for public inspection of the local authority’s proposals. This regulation also allows local authorities to provide factual information about their proposals, outline fall-back proposals and the referendum, so long as the information is presented fairly.

Regulation 5 imposes restrictions on the material that may be published, displayed or distributed by and on behalf of the authority during the period of 28 days before the date of the referendum.

Regulation 6 imposes a “referendum expenses limit” on the amount that may be incurred by way of “referendum expenses” (both terms are defined in regulation 6(1), to which Schedule 2 is relevant). The amount of referendum expenses is updated to reflect inflation between the making of the 2004 Regulations and these Regulations. Under regulation 6(3) there is an offence for expenditure in excess of the referendum expenses limit.

Regulation 7 provides for amounts relevant to the use of certain property, services and facilities to be treated as incurred by way of referendum expenses for the purposes of regulation 6.

Regulation 8 provides for the conduct of a referendum. The 2004 Regulations applied for this purpose the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) with modifications. These Regulations set out the rules for the conduct of a referendum in full (the Local Government Act Referendums Rules), in Schedule 3. The changes which reflect the 2006 Act are summarised at the end of this note. Other electoral legislation is applied, with modifications, to facilitate the conduct of referendums (as set out in Tables 1 to 5 of Schedule 4).

Regulation 9 specifies who is to be the counting officer at the referendum.

Regulation 10 deals with the result of the referendum, subject to the provisions which allow the result of the referendum to be challenged.

Regulation 11 specifies the grounds of challenge and the period within which a referendum petition must be made. It also sets out the procedures applicable to referendum petitions, and applies with

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modifications, through Schedules 5 and 6, provisions of the Representation of the People Act 1983 and the Election Petitions Rules 1960. Regulation 12 addresses the immediate consequences of the bringing of a referendum petition (as to whether the authority may implement or continue to operate new executive arrangements in pursuance of the referendum). Regulation 13 makes provision for the situation after an election court has determined a referendum petition.

Regulation 14 provides for certain days to be ignored in computing certain periods of time for the purposes of these Regulations.

Regulation 15 exempts advertisements relating specifically to the referendum from regulations under the Town and County Planning Act 1990 (c. 8) controlling the display of advertisements.

Regulation 16 provides that premises used in relation to the referendum for public meetings or the taking of the poll are to be treated as unoccupied for rating purposes.

Schedule 1 prescribes the statement and the form of the question to be asked in the referendum.

Schedule 2 makes provision about the matters relevant to referendum expenses.

Schedule 3 contains the Local Government Act Referendums Rules.

Schedule 4 applies electoral legislation with modifications to facilitate the conduct of referendums. Provisions from the following enactments and subordinate legislation are applied: the Representation of the People Acts 1983 (c. 2), 1985 (c. 50) and 2000 (c. 2), the Political Parties, Elections and Referendums Act 2000 (c. 41), the 2006 Act and the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341).

Schedule 5 applies with modifications provisions of the Representation of the People Act 1983 for the purposes of the bringing of a referendum petition to challenge the result in a referendum.

Schedule 6 makes modifications to the Election Petition Rules 1960, when applied to referendums by regulation 11(9).

The provisions of the Local Government Act Referendums Rules (“the Rules”) which reflect changes made by the 2006 Act include the following.

The Rules reflect new security measures introduced by the 2006 Act. Security markings on ballot papers are provided for; so too are unique identifying marks. Counterfoils on ballot papers are replaced by corresponding number lists. Requirements are imposed requiring postal voters and postal proxies to provide both their signature and date of birth when returning postal ballot papers.

The Rules reflect alterations as to the circumstances in which a person may give a tendered vote. New requirements are introduced as to the information and accessibility of information to be provided by counting officers to voters.

The Rules reflect changes made as to the persons who may be admitted to a polling station and the count to observe referendums.

Amendments are made to provide for transmission of information to a presiding officer of alterations to the electoral register taking effect on the day of the poll. Amendments consequential upon the introduction of a scheme for the anonymous registration of certain electors are made.

The Rules reflect changes made regarding the retention and inspection of referendum documents after the poll.

The new forms which are appended to the Rules reflect the changes made by the 2006 Act.

A regulatory impact assessment has been carried out in connection with these Regulations and is available from the Local Government Policy Division of the Welsh Assembly Government, Cathays Park, Cardiff CF10 3NQ.