
DRAFT STATUTORY INSTRUMENTS

2012 No.

**The Local Authorities (Conduct of
Referendums)(England) Regulations 2012**

Citation and commencement

1. These Regulations may be cited as the Local Authorities (Conduct of Referendums)(England) Regulations 2012 and come into force on the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

“the 1972 Act” means the Local Government Act 1972(1);

“the 1983 Act” means the Representation of the People Act 1983(2);

“the 1985 Act” means the Representation of the People Act 1985(3);

“the 2000 Act” means the Local Government Act 2000(4);

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011(5);

“the Petitions Regulations” means the Local Authorities (Referendums)(Petitions)(England) Regulations 2011(6);

“the Representation of the People Regulations” means the Representation of the People (England and Wales) Regulations 2001(7);

“the Combination of Polls Regulations” means the Representation of the People (Combination of Polls)(England and Wales) Regulations 2004(8);

“the Local Government Act Referendums Rules” means the rules set out in Schedule 3 to these Regulations;

“the Local Government Act Referendums (Combination of Polls) Rules” means the rules set out in Schedule 5 to these Regulations;

“counting observer” means a person appointed by a counting officer under rule 18(2) of the Local Government Act Referendums Rules or rule 18(1) of the Local Government Act Referendums (Combination of Polls) Rules (as the case may be);

“counting officer” means a person referred to in regulation 9;

“elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by local government electors for the authority’s area in accordance with provisions made by or under Part 1A of the 2000 Act;

(1) 1972 c.70.

(2) 1983 c.2.

(3) 1985 c.50.

(4) 2000 c.22.

(5) 2011 c.13.

(6) S.I. 2011/XXX

(7) S.I. 2001/341; amended by SI 2001/1700, 2002/1871, 2004/226, 2006/752 and 2006/2910.

(8) S.I. 2004/294; amended by SI 2006/3278.

“European Parliamentary election” and “European Parliamentary general election” must be construed in accordance with section 27(1) of the 1985 Act⁽⁹⁾;

“further referendum” means a referendum held in pursuance of an order under regulation 17(5);

“local government election” must be construed in accordance with section 203(1) of the 1983 Act⁽¹⁰⁾;

“mayoral election” must be construed in accordance with the Local Authorities (Mayoral Elections)(England and Wales) Regulations 2007⁽¹¹⁾;

“notification date”—

- (a) in relation to a referendum, means the date on which the notice required to be published by regulation 4(1) is published;
- (b) in relation to a further referendum, means the date which falls two months before the day on which the poll at the further referendum is held;

“petition organiser”, in relation to a referendum, means a person who is treated for the purpose of regulation 10(4) or (5) (formalities of petition) as the case may be of the Petitions 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 a referendum is held;

“police area” must be construed in accordance with section 102 of the 2011 Act;

“police and crime commissioner” means an individual elected as a police and crime commissioner by relevant electors within the police area in accordance with provisions made by or under Chapter 6 of Part 1 of the 2011 Act;

“police and crime commissioner election” must be construed in accordance with provision made by or under section 50 or 51 of the 2011 Act;

“polling observer” means a person appointed by a counting officer under rule 18(1) of the Local Government Act Referendums Rules or rule 19(1) of the Local Government Act Referendums (Combination of Polls) Rules (as the case may be);

“proper officer” must be construed in accordance with section 270(3) of the 1972 Act;

“referendum” means a referendum held under section 9M (cases in which change is subject to approval in a referendum etc) of the 2000 Act, or by virtue of regulations or order made under any provision of Part 1A (arrangements with respect to local authority governance in England) of that Act;

“referendum period”, in relation to a referendum (including a further referendum), means the period beginning with the notification date and ending on the date of the referendum;

“referendum petition” means the petition by which a referendum may be questioned in accordance with regulation 15;

“relevant election or referendum” means one or more of the following—

- (a) another referendum (including a further referendum);
- (b) a Parliamentary election;
- (c) a European Parliamentary election;
- (d) a local government election;
- (e) a mayoral election;

(9) 1985 c.50; the definitions were amended by section 3 of the European Communities (Amendment) Act 1986 (c.58) in consequence of the European Assembly being renamed the European Parliament.

(10) 1983 c.2; the definition of “local government election” was amended by paragraph 39 of Schedule 17 to the Greater London Authority Act 1999 (c.29).

(11) S.I. 2007/1024.

- (f) a police and crime commissioner election,
the poll at which is taken together with the poll at the referendum;
“voting area” 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.

Question to be asked in a referendum

3. Where the proposals in relation to which a referendum is to be held are for the authority to operate—

- (a) a mayor and cabinet executive, the question to be asked in that referendum is to be in the form set out—
- (i) where the authority is currently operating a leader and cabinet executive (England), in paragraph 1 of Schedule 1 to these Regulations; and
 - (ii) where the authority is currently operating the committee system, in paragraph 2 of Schedule 1 to these Regulations; and
- (b) a leader and cabinet executive (England), the question to be asked in that referendum is to be in the form set out—
- (i) where the authority is currently operating a mayor and cabinet executive, in paragraph 3 of Schedule 1 to these Regulations; and
 - (ii) where the authority is currently operating the committee system in paragraph 4 of Schedule 1 to these Regulations; and
- (c) the committee system, the question to be asked in that referendum is to be in the form set out—
- (i) where the authority is currently operating a mayor and cabinet executive, in paragraph 5 of Schedule 1 to these Regulations; and
 - (ii) where the authority is currently operating a leader and cabinet executive (England), in paragraph 6 of Schedule 1 to these Regulations.

Publicity and other information in connection with referendums

4.—(1) Subject to paragraph (2), the proper officer must, not fewer than 56 days before the date on which the referendum will be held in accordance with sub-paragraph (c)(ii) below, publish in such a manner as he or she considers likely to bring to the attention of persons who live in the local authority area a notice which contains—

- (a) a statement that, as the case may be—
- (i) proposals under section 9MA (Referendum: proposals by local authority); or
 - (ii) proposals under regulation 17(2) of the Petitions Regulations; or
 - (iii) any proposals required under an order under section 9ME or 9N,
- have been drawn up;
- (b) a description of the main features of any proposals;
- (c) a statement—
- (i) that a referendum will be held;
 - (ii) of the date on which the referendum will be held;

- (iii) in a case to which regulation 10(1) or (5) applies, that the poll in the referendum will be taken together with the poll or polls in an election or elections of a description which is to be specified in the statement;
- (iv) of the question to be asked in the referendum;
- (v) that the referendum will be conducted in accordance with procedures similar to those used at local government elections;
- (vi) 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;
- (vii) of the address and times at which a copy of any proposals may be inspected;
- (viii) of the procedures for obtaining a copy of any proposals; and
- (ix) if the proper officer then knows that the poll in the referendum (whether or not it is to be taken together with the poll in an election) will be taken together with the poll in a referendum for another area, that the polls will be taken together for the two (or more) areas, which are to be specified in the statement.

(2) At least 14 days before the day on which the proper officer of an authority publishes a notice in accordance with paragraph (1) that proper officer must, by notice in writing, advise—

- (a) if that person is the proper officer of a county council, the proper officer of the council of each district comprised in the county;
- (b) if that person is the proper officer of a district council comprised in an area for which there is a county council, the proper officer of—
 - (i) the council of the county in which the district lies; and
 - (ii) each of the district councils in that county,

that that person intends to publish a notice under paragraph (1) and the date of the referendum to be held in the area.

(3) It is the duty of each proper officer—

- (a) to whom notice has been given under paragraph (2); and
- (b) whose council are considering the holding of a referendum in their area,

to consider whether it would be practicable to combine that referendum with the one of which such notice has been given; and each such officer must reply to the notice within seven days of its receipt, indicating whether that proper officer's authority wish to combine their referendum with that to which the notice refers.

(4) Unless the notice required to be published by paragraph (1) ("the first notice") is published fewer than 74 days before the date of the referendum, the proper officer must publish a second notice containing the particulars specified in paragraph (1)(c)(i)-(viii) and, if paragraph (1)(c)(ix) applies (whether or not it applied in relation to the first notice, if any), the particulars specified in that paragraph.

(5) The second notice is to be published—

- (a) in the same manner as was used for the publication of the first notice; and
- (b) not more than 55 days and not fewer than 28 days before the date of the referendum.

(6) The 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 any proposals, and must secure that sufficient copies are available for persons who wish to obtain copies.

(7) The authority may provide (whether or not in pursuance of any duty to do so) any other factual information relating to any proposals or the referendum so far as it is presented fairly.

(8) In determining for the purposes of paragraph (7) whether any information is presented fairly, regard is, in accordance with section 9Q, to be had to any guidance for the time being issued by the Secretary of State under that section.

(9) The date on which the notice required to be published by paragraph (1) is published is “the notification date”.

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” 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(12)); and “publication” is to be construed accordingly.

General restriction on referendum expenses

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

“campaign organiser” 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” 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” 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” 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” 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;

(12) 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).

“the relevant register” means the register (or registers) of local government electors published under section 13 (publication of registers) of the 1983 Act⁽¹³⁾ after the conclusion of the canvass conducted under section 10 of that Act⁽¹⁴⁾ 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 these 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 his or her duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him or her 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 such capacity, that person, as well as the body corporate, is guilty of an 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 12 months 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 section 154(1) of the Criminal Justice Act 2003⁽¹⁵⁾, the reference in paragraph (6)(a) to 12 months is to be read as a reference to 6 months.

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

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 him or her or on his or her behalf in respect of that use, they would be (or are) referendum expenses incurred by him or her or on his or her 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

⁽¹³⁾ 1983 c.2; the existing section was substituted for the original section 13 by paragraph 6 of Schedule 1 to the Representation of the People Act 2000 (c.2).

⁽¹⁴⁾ 1983 (c.2); the existing section 10 was substituted 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.26).

⁽¹⁵⁾ 2003 c.44.

purposes of regulation 6 as incurred by that person for 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 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 his or her 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 his or her employer in respect of the period for which that person'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 that 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 his or her own services which that person provides voluntarily in his or her own time and free of charge.

Conduct of referendum: poll at referendum not taken together with poll at relevant election or 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), unless the poll at the referendum is taken together with the poll at a relevant election or referendum.

(2) The provisions mentioned in the first column of Tables 1 to 6 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 in these Regulations.

Counting officer

9.—(1) Subject to regulations 11(2) and 13(2), 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(1) or (3) (returning officers: local elections) of the 1983 Act⁽¹⁶⁾.

(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 any such persons as may be necessary for the purpose of the counting of the votes.

Combination of polls: general

- 10.—(1)** Where the poll at a referendum would be taken on a day that falls within the period—
- (a) beginning 28 days before the day on which the poll is to be taken at an election of a description mentioned in paragraph (2); and
 - (b) ending 28 days after the day on which the poll is to be taken at any such election,

⁽¹⁶⁾ 1983 c.2; subsection (1) was amended by paragraph 11 of Schedule 16 to the Local Government Act 1985 (c.51).

the poll at the referendum must, subject to paragraph (3), be taken on the day on which the poll is to be taken at the election; and the polls must be taken together.

- (2) The descriptions of elections mentioned in this paragraph are—
- (a) an ordinary election of councillors for a county electoral division or a district or London borough ward (as the case may be) of the local authority by which or as regards which the referendum is to be held;
 - (b) an ordinary election of councillors for a county electoral division or a district or London borough ward (as the case may be) of any other local authority, where that division or ward is wholly or partly within the area of the local authority by which or as regards which the referendum is to be held;
 - (c) a parliamentary general election;
 - (d) an election to fill a vacancy in a parliamentary constituency that is wholly or partly within the area of the local authority by which or as regards which the referendum is to be held;
 - (e) a European Parliamentary general election;
 - (f) a European Parliamentary election in respect of an electoral region within the meaning of section 1 of the European Parliamentary Elections Act 2002⁽¹⁷⁾ in which the area of the local authority by which or as regards which the referendum is to be held falls;
 - (g) an ordinary election within the meaning of Part 1 (the Greater London Authority) of the Greater London Authority Act 1999⁽¹⁸⁾, where the local authority by which or as regards which the referendum is to be held is a London borough;
 - (h) an election (other than an ordinary election) of the Mayor of London under section 16(2) (filling a vacancy in the office of Mayor) of the Greater London Authority Act 1999, where the local authority by which or as regards which the referendum is to be held is a London borough;
 - (i) an ordinary election of police and crime commissioners under section 50 of the 2011 Act;
 - (j) an election to fill a vacancy in the office of a police and crime commissioner under section 51 of the 2011 Act for a police area in which the area of the local authority by which or as regards which the referendum is to be held falls;
 - (k) an election of an elected mayor.

(3) Where the poll at a referendum would be taken together with the poll at an election of a description mentioned in paragraph (2)(c), (d), (f), (h) or (j), paragraph (1) does not apply where notice of the date of the referendum is given under regulation 4 before the date on which notice is given of the date of election, and the date of the referendum is not the same as that of the election.

(4) In a case to which paragraph (3) applies, the poll at a referendum is to be taken on the day of which the notice has been given under regulation 4.

(5) The poll at a referendum may be taken together with the poll at an election under section 89 (filling of casual vacancies in the case of councillors) of the 1972 Act⁽¹⁹⁾ or under section 10 (filling a vacancy in an Assembly constituency) of the Greater London Authority Act 1999—

- (a) where the referendum is to be held in compliance with a direction of the Secretary of State, if he or she so determines;
- (b) in any other case, if the authority by which the referendum is to be held so determine.

(6) Notice of a determination under paragraph (5) must be given in writing—

⁽¹⁷⁾ 2002 c.24. Section 1 was substituted by section 1 of the European Parliament (Representation) Act 2003 (c.7). Amendments were made by section 16 of the European Union Act 2011 (c.12). Substitutions were made by S.I. 2004/366 and S.I. 2008/1954.

⁽¹⁸⁾ 1999 c.29.

⁽¹⁹⁾ Section 89 was amended by paragraph 13 of Schedule 8 to the Representation of the People Act 1983 (c.2), section 19 of the Representation of the People Act 1985 (c.50) and Schedule 17 to the Local Government Act 1985 (c.51).

- (a) where the determination is made by the Secretary of State, to the authority or authorities (as the case may be) by which the election and the referendum concerned are to be held;
 - (b) where the determination is made by an authority, to the authority (other than themselves) by which the election concerned is to be held.
- (7) Subject to paragraph (8), where an authority (“the first authority”) have given notice under regulation 4(1) of the date on which a referendum will be held in their area, no other authority—
- (a) whose area includes that of the first authority; or
 - (b) whose area is part of that of the council of the same county as that of the first authority,
- may hold a referendum in their area within the period beginning 28 days before the date of the first authority’s referendum and ending 28 days after that date unless the polls at the referendums are combined.
- (8) Where the date on which a referendum is to be held in a county is the same as that on which a referendum is to be held in any district within that county, the polls must be taken together.

Combination of referendum and election polls: conduct of referendum

- 11.**—(1) This regulation applies, in relation to the referendum, where polls are taken together in accordance with regulation 10(1) or (5).
- (2) The referendum is to be conducted in accordance with the Local Government Act Referendums (Combination of Polls) Rules (as contained in Schedule 5 to these Regulations).
- (3) The provisions specified in the first column of Tables 1 to 6 of Schedule 4 have effect in relation to the referendum, subject to the modifications specified in that Schedule and to any contrary provision of these Regulations.
- (4) Where a person applies under Schedule 4 to the Representation of the People Act 2000⁽²⁰⁾ to vote by post, or to vote by proxy, at the election, that person is to be treated as applying also to vote by post, or to vote by proxy, at the referendum.

Combination of referendum and election polls: supplementary provisions relating to elections

- 12.**—(1) This regulation applies, in relation to the election or elections (as the case may be), where polls are taken together in accordance with regulation 10(1) or (5).
- (2) The provisions specified in the first column of Tables 2, 3 and 6 of Schedule 4 have effect in relation to elections to which this regulation applies, subject to the modifications specified in that Schedule and to any contrary provision of these Regulations.
- (3) Where a person applies under Schedule 4 to the Representation of the People Act 2000 to vote by post, or to vote by proxy, at the referendum, that person is to be treated as applying also to vote at the election by post or by proxy.

Combination of referendum polls: supplementary

- 13.**—(1) This regulation applies where polls at referendums are taken together in accordance with regulation 10(7) or (8).
- (2) The functions mentioned in paragraph (3) are all to be discharged by one counting officer, and the counting officers are to agree as to which of them that should be.
- (3) The functions mentioned in this paragraph are—

⁽²⁰⁾ 2000 c.2. Schedule 4 was amended by paragraph 164 of Schedule 27 to the Civil Partnerships Act 2004 (c.33), and sections 5, 14, 35 and 38 of, and paragraphs 19, 20 and 137 of Schedule 1 to, the Electoral Administration Act 2006 (c.22).

- (a) those under the following rules of the Local Government Act Referendums (Combination of Polls) Rules—
- (i) unless paragraph (ii) applies, rule 8 (the corresponding number list) to the extent that it relates to ballot papers to be provided in pursuance of rule 17(1);
 - (ii) where the proceedings on the issue and receipt of postal ballot papers at the referendums are taken together under regulation 65 of the Representation of the People Regulations (as applied by paragraph (5)), rule 8 (the corresponding number list);
 - (iii) rule 12(3) (notice of situation of polling stations, etc);
 - (iv) where the proceedings on the issue and receipt of postal ballot papers at the referendums are taken together under regulation 65 of the Representation of the People Regulations (as applied by paragraph (5)), rule 13 (postal ballot papers);
 - (v) rule 14 (provision of polling stations);
 - (vi) rule 15(1) and (2) (appointment of presiding officers and clerks) to the extent that that rule concerns the appointment of presiding officers and clerks to assist them;
 - (vii) rule 17 (equipment of polling stations);
 - (viii) rule 20 (notification of requirement of secrecy in relation to polling stations);
 - (ix) where the proceedings on the issue and receipt of postal ballot papers at the referendums are taken together under regulation 65 of the Representation of the People Regulations (as applied by paragraph (5)), rule 22 (return of postal ballot papers);
 - (x) rule 23(3) (signature as to certificate of employment);
 - (xi) rule 24(2)(b) (keeping of order in station);
 - (xii) rule 38(1) (the count); and
- (b) where the proceedings on the issue and receipt of postal ballot papers at more than one referendum are taken together under regulation 65 of the Representation of the People Regulations (as applied by paragraph (5)), the functions conferred by the provisions of Part 5 of those Regulations applied by paragraph (5).
- (4) The referendums are to be conducted in accordance with the Local Government Act Referendums (Combination of Polls) Rules.
- (5) The provisions specified in the first column of Tables 1 to 6 of Schedule 4 have effect in relation to the referendums, subject to the modifications specified in that Schedule and to any contrary provision of these Regulations.
- (6) The cost of taking the combined poll (excluding any cost solely attributable to one referendum) and any cost attributable to the combination is to be apportioned equally among the referendums.

Result of referendum or further referendum

14.—(1) This regulation is subject to regulations 16 and 17.

(2) If the majority of the votes cast in a referendum other than a further referendum are in favour of the authority operating arrangements which differ from its existing arrangements, the result of the referendum is—

- (a) for the purposes of section 9MB(3), to approve the authority's proposals under section 9MA;
- (b) for the purposes of regulation 18 (action where referendum proposals approved) of the Petitions Regulations, and in accordance with section 9MF(4), to approve the proposals

drawn up under regulation 17(2) of the Petitions Regulations which were the subject of the referendum;

- (c) for the purposes of an order made under section 9N, to require the authority to start to operate a mayor and cabinet executive;
- (d) for the purposes of an order made under section 9ME, and in accordance with section 9MF(4), to require the authority to start to operate the form of governance that was the subject of the referendum held in consequence of the order.

(3) If the majority of the votes cast in a referendum other than a further referendum are in favour of the continuation of the authority's existing arrangements, the result of the referendum is—

- (a) for the purposes of section 9MB(3), to reject the authority's proposals under section 9MA;
- (b) for the purposes of regulation 19 (action where referendum proposals rejected) of the Petitions Regulations, and in accordance with section 9MF(5), to reject the proposals drawn up under regulation 17(2) of the Petitions Regulations which were the subject of the referendum;
- (c) for the purposes of an order made under section 9N, to reject the proposal that the authority start to operate a mayor and cabinet executive;
- (d) for the purposes of an order made under section 9ME, and in accordance with section 9MF(5), to reject the proposal that the authority start to operate the form of governance that was the subject of the referendum held in consequence of that order.

(4) If the majority of the votes cast in a further referendum are in favour of the authority continuing to operate a mayor and cabinet executive, the result of the referendum is to require the authority to continue to operate those arrangements.

(5) If the majority of the votes cast in a further referendum are in favour of the authority changing its governance arrangements to those it operated at the time of the tainted referendum, the result of the referendum is to require the authority to implement those arrangements.

Procedures for questioning referendum

15.—(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, 11 or 13 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, 11 or 13 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 6 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⁽²¹⁾ 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 7 to these Regulations and to any contrary provision of these Regulations.

Immediate consequences of referendum petitions

- 16.**—(1) This regulation, apart from paragraph (5), applies where—
- (a) a referendum petition is presented on any of the grounds mentioned in regulation 15(1) (a) to (c); or
 - (b) leave is granted to the presentation of a referendum petition brought under the ground mentioned in regulation 15(1)(d).
- (2) Where this regulation applies—
- (a) in relation to a referendum—
 - (i) at which the question asked was in the form set out in paragraph 3, 4, 5 or 6 of Schedule 1; and
 - (ii) in which the majority of the votes cast are in favour of the authority operating arrangements which differ from their existing arrangements; and
 - (b) before the authority have passed a resolution under section 9KC,
- the 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 question asked was in the form set out in paragraph 3, 4, 5 or 6 of Schedule 1; and
 - (ii) in which the majority of the votes cast are in favour of the authority operating arrangements which differ from their existing arrangements; and
 - (b) after the authority have passed a resolution under section 9KC,
- the authority must continue to operate the arrangements that are the subject of that resolution.
- (4) Where this regulation applies—
- (a) in relation to a referendum—

(21) S.I. 1960/543; amended by SI 1985/1278, 1999/1352 and 2003/972.

- (i) at which the question asked was in the form set out in paragraph 1 or 2 of Schedule 1; and
 - (ii) in which the majority of the votes cast are in favour of the authority operating arrangements which differ from their existing arrangements; and
- (b) without an election for the return of an elected mayor having taken place in consequence of the referendum,

the 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 leave is granted to the presentation of a referendum petition brought under the ground mentioned in regulation 15(1)(d)—

- (a) in relation to a referendum—
 - (i) at which the question asked was in the form set out in paragraph 1 or 2 of Schedule 1; and
 - (ii) in which the majority of the votes cast are in favour of the authority operating arrangements which differ from its existing arrangements; 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

17.—(1) Where an election court certifies, as its determination of a referendum petition, that the result of the referendum declared under regulation 14 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 authority's proposals under section 9MA;
- (b) included in their proposals under regulation 17(2) of the Petitions Regulations; or
- (c) prepared in pursuance of any other regulations or an order made under any provision of Part 1A (arrangements with respect to local authority governance in England) 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) 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 16 other than paragraph (5), 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.

(3) Where an election court certifies, as its determination of a referendum petition specifying any of the grounds mentioned in regulation 15(1), that the referendum was avoided, the 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.

(4) Where another referendum is held in the circumstances referred to in paragraph (3), these Regulations apply to the conduct of that referendum as they apply to the conduct of the avoided referendum subject to—

- (a) in regulation 4—

- (i) the omission of paragraph (1)(a) and (b);
- (ii) in paragraph (1)(c), the omission of paragraphs (vii) and (viii);
- (iii) after paragraph (1)(c)(ix), the insertion of—

“(x) that another referendum is being held in consequence of the determination of an election court that the referendum last held in the authority’s area was avoided.”.

- (5) Where the circumstances are as mentioned in regulation 16(5)(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.

(6) Where the election court makes the order mentioned in paragraph (5), subject to regulation 10(1), the 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.

(7) If the majority of the votes cast in a further referendum are in favour of the authority continuing to operate a mayor and cabinet executive, the authority must continue to operate those arrangements.

(8) If the majority of the votes cast in a further referendum are in favour of the authority changing its governance arrangements to those which it operated at the time of the tainted referendum, section 9KC(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 mayor and cabinet executive, the authority have resolved to operate the arrangements they operated at the time of the tainted referendum instead;”.

(9) 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 3 the omission of paragraphs (a), (b)(ii) and (c)(ii);
- (b) in regulation 4—
 - (i) the omission of paragraph (1)(a) and (b);
 - (ii) in paragraph (1)(c), the omission of paragraphs (vii) and (viii);
 - (iii) after paragraph (1)(c)(ix), the insertion of—

“(x) that a further referendum is being held in consequence of the determination of an election court that the referendum last held in the authority’s area was 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;”;

- (c) in Schedule 1 the omission of paragraphs 1, 2, 4 and 6;
- (d) the omission of the first, second, fourth and sixth forms appearing in the Local Government Act Referendums Rules and the Local Government Act Referendums (Combination of Polls) Rules.

Time

18.—(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⁽²²⁾ in England; and
- (c) any day appointed as a day of public thanksgiving or mourning.

Advertisements

19. The Town and Country Planning (Control of Advertisements) Regulations 1992⁽²³⁾ 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.

Non-domestic rating: premises used for referendum purposes

20. In relation to premises in a voting area, section 65(6) of the Local Government Finance Act 1988⁽²⁴⁾ (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—
 - (i) by a person exercising functions of a counting officer in accordance with regulation 9; or
 - (ii) by a relevant returning or counting officer within the meaning of rule 2(1) of the Local Government Act Referendums (Combination of Polls) Rules.

Revocations

21. The Local Authorities (Conduct of Referendums)(England) Regulations 2007⁽²⁵⁾ are revoked.

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

Minister of State
Department for Communities and Local
Government

Date

⁽²²⁾ 1971 c.80.

⁽²³⁾ 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, 1997/1810, 2001/1149, 2001/4050, 2003/2155 and 2005/3050.

⁽²⁴⁾ 1988 c.41, to which there have been no relevant amendments.

⁽²⁵⁾ S.I. 2007/2089