



# Regional Assemblies (Preparations) Act 2003

## 2003 CHAPTER 10

### PART 1

#### REFERENDUMS

##### *Referendums*

#### **1 Assembly referendums**

- (1) The Secretary of State may by order cause a referendum to be held in a region specified in the order about the establishment of an elected assembly for that region.
- (2) The date of the referendum must be specified in the order.
- (3) But the Secretary of State must not make an order under subsection (1) unless each of the following two conditions is satisfied in relation to the region.
- (4) The first condition is that the Secretary of State has considered the level of interest in the region in the holding of such a referendum.
- (5) The second condition is that the Boundary Committee for England have made recommendations in relation to the region in pursuance of section 13.
- (6) The Secretary of State may make the order at any time during the period of two years starting with the date on which he gives a direction under section 13 in relation to the region so long as before he makes the order he has no cause to think that the level of interest has changed materially.
- (7) A change in the level of interest is material if the changed level is one at which the Secretary of State (disregarding factors relating to any other region) thinks he would not have given a direction under section 13.

- (8) If the Secretary of State has cause to think that the level of interest has changed materially as mentioned in subsection (6), that subsection does not apply but he must not make an order under subsection (1) unless for the purposes of subsection (4) he considers—
- (a) views expressed and information and evidence provided to him;
  - (b) such published material as he thinks appropriate.
- (9) The Secretary of State may by order vary or revoke an order under this section if he thinks it is not appropriate for a referendum to be held on the date specified in the order.

## **2 Local government referendums**

- (1) This section applies if the Secretary of State makes an order under section 1 to cause a referendum to be held in a region about the establishment of an elected assembly for that region.
- (2) The Secretary of State must by order cause a referendum to be held in each county area in the region about the government's proposals for the structure of local government in that area.
- (3) A county area is an area in the region in relation to which both a county council and one or more district councils have functions.
- (4) But if the government's proposals for a county area include an option providing for a local authority whose area includes any part of the area of more than one county area, the county area for the purposes of this section is the combined area of each of those county areas.
- (5) The government's proposals for the structure of local government—
- (a) are such of the recommendations of the Boundary Committee for England made in pursuance of a direction under section 13(1) or 16(4) as the Secretary of State thinks appropriate subject to such modifications (if any) as he proposes to make in pursuance of section 17(3);
  - (b) must include at least two options for structural change (within the meaning of Part 2 of the Local Government Act 1992 (c. 19)) in relation to each county area in the region.
- (6) The date of a referendum held in pursuance of an order under subsection (2) must be—
- (a) specified in the order;
  - (b) the same date as the date specified in the order under section 1.
- (7) An order under subsection (2) must not be made before the end of the period of six weeks starting with the day on which the Secretary of State receives the recommendations of the Boundary Committee in pursuance of a direction under section 13(1) or 16(4).
- (8) The Secretary of State by order—
- (a) may vary an order under subsection (2);
  - (b) must revoke such an order if he revokes the order under section 1.
- (9) A Minister of the Crown may by order make such provision as he thinks appropriate in connection with a referendum held in pursuance of an order under subsection (2).
- (10) An order under subsection (9) may—

- (a) make provision for the creation of offences;
- (b) apply or incorporate with or without modifications or exceptions any provision of any enactment (whenever passed or made and including this Act) relating to elections or referendums;
- (c) modify any provision of Chapter 2 of Part 7 of the 2000 Act as it applies to a referendum held in pursuance of an order under section 1.

### **3 Referendum questions**

- (1) The question to be asked in a referendum held in pursuance of an order under section 1 is:

“Should there be an elected assembly for the *(insert name of region)* region?”

- (2) The following statement (in as nearly as may be the following form) must precede the question on the ballot paper:

“You can help to decide whether there should be an elected assembly in the *(insert name of region)* region. If an elected assembly is to be established, it is intended that:

- the elected assembly would be responsible for a range of activities currently carried out mainly by central government bodies, including regional economic development; and
- local government would be reorganised into a single tier in those parts of the region that currently have both county and district councils.”

- (3) The question to be asked in a referendum in pursuance of an order under section 2(2) is:

“Which of the following options for single tier local government do you prefer?

- *insert text of options set out in the order requiring the referendum to be held.*”

- (4) If the same ballot paper is used for both a referendum held in pursuance of an order under section 1 and a referendum held in pursuance of an order under section 2(2), the following statement (in as nearly as may be the following form) must precede the question on the ballot paper used in any part of the region where a referendum is held in pursuance of an order under section 2(2):

“Your part of the region currently has both county and district councils. You can help to decide how local authorities in your part of the region will be reorganised into a single tier. There will be no such reorganisation if an elected assembly is not established.”

- (5) If the same ballot paper is not used for both referendums as mentioned in subsection (4) the following statement (in as nearly as may be the following form) must precede the question on the ballot paper used for a referendum held in pursuance of an order under section 2(2):

“If an elected assembly is established for the *(insert name of region)* region, it is intended that local government will be reorganised into a single tier in those parts of the region that currently have both county and district councils.

Your part of the region currently has both county and district councils. You can help to decide how local authorities in your part of the region will be reorganised into a single tier. There will be no such reorganisation if an elected assembly is not established.”

- (6) An order under section 2(2) must set out—
  - (a) the text of the options to be inserted in the question specified in subsection (3);
  - (b) such explanatory material relating to the options as will be made available for voters at the time they vote.
- (7) Before an order under section 2(2) is laid before Parliament in pursuance of section 29(2) the Secretary of State must consult the Electoral Commission—
  - (a) on the wording of the text required to be inserted in pursuance of subsection (3);
  - (b) on the explanatory material.
- (8) At the time when the order is so laid the Secretary of State must lay before each House a report stating any views which the Commission have expressed in response to the consultation as to—
  - (a) the intelligibility of the text mentioned in subsection (7);
  - (b) the explanatory material.
- (9) Explanatory material does not include instructions to voters as to the conduct of the referendum.

#### **4 Entitlement to vote**

- (1) A person is entitled to vote in a referendum held in a region in pursuance of an order under section 1 if on the date of the referendum he is entitled to vote at the election of councillors for any electoral area in the region.
- (2) A person is entitled to vote in a referendum held in a county area of a region in pursuance of an order under section 2(2) if on the date of the referendum he is entitled to vote at the election of councillors for any electoral area in the county area.
- (3) But subsections (1) and (2) are subject to provision made by the Secretary of State in regulations for disregarding alterations made after a specified date in a register of electors.
- (4) The regulations may apply or incorporate with or without modifications or exceptions any provision of any enactment (whenever passed or made) relating to referendums or elections.
- (5) An electoral area is any electoral division or ward (or in the case of a parish in which there are no wards the parish) for which the election of councillors is held under the Local Government Act 1972 (c. 70).
- (6) County area must be construed in accordance with section 2.

#### **5 Referendum period**

For the purposes of Part 7 of the 2000 Act (referendums) the Secretary of State must by order determine the referendum period for a referendum held in pursuance of an order under section 1.

#### **6 Further referendums**

- (1) Subsection (2) applies if—

- (a) a referendum is held in a region in pursuance of an order under section 1, and
  - (b) a majority of the votes cast in the referendum is against there being an elected assembly for the region.
- (2) No further order under section 1 may be made in relation to the region until the end of the period of seven years starting with the day on which the referendum was held.
- (3) Any question as to the number of votes cast in a referendum in favour of an answer to a question is determined by the certificate of the Chief Counting Officer given under section 128 of the 2000 Act (functions of Chief Counting Officer).
- (4) Subsection (5) applies if in any proceedings any certificate given by a person appointed for the purpose as to the number of votes cast in favour of any option in a referendum held in a county area in pursuance of an order under section 2(2) is declared or held to be invalid.
- (5) The Secretary of State may by order cause a further referendum to be held in that county area as mentioned in that section and for that purpose the following provisions of section 2 apply as they apply for the purpose of an order made under section 2(2)—
  - (a) subsections (3) to (5);
  - (b) subsection (6)(a);
  - (c) subsections (9) and (10).
- (6) If an order is made under subsection (5) any reference in this Act to a referendum held in pursuance of an order under section 2(2) or to the order must be construed as a reference to a referendum held in pursuance of an order under subsection (5) or to the order under that subsection (as the case may be).
- (7) But subsection (6) applies to such a reference in section 3(7) and (8) only to the extent that the wording of the text mentioned in section 3(7)(a) or the explanatory material differs from that considered by the Electoral Commission for the purposes of the referendum held in pursuance of the order under section 2(2).
- (8) For the purposes of a referendum held in pursuance of an order under subsection (5) the Secretary of State may by order vary the terms of the statement set out in section 3(5).
- (9) Before an order under subsection (8) is laid before Parliament in pursuance of section 29(2) the Secretary of State must consult the Electoral Commission as to the wording of the statement as so varied.
- (10) At the time when the order is so laid the Secretary of State must lay before each House a report stating any views which the Commission have expressed in response to the consultation as to the intelligibility of the statement as so varied.
- (11) The Secretary of State may by order vary or revoke an order made under subsection (5) if he thinks that it is not appropriate for the referendum to be held on the date specified in the order.
- (12) Explanatory material must be construed in accordance with section 3.

### *Combination of polls*

#### **7 Combination of polls**

- (1) A Minister of the Crown may by order make provision for the combination of polls at a referendum held in pursuance of an order under section 1 or 2(2) with one another or with—
  - (a) polls at a referendum held under section 27 of the Local Government Act 2000 (c. 22) or by virtue of regulations or an order under Part 2 of that Act;
  - (b) polls at any election.
- (2) The order may—
  - (a) make provision in connection with the combination of polls;
  - (b) make provision for the creation of offences;
  - (c) apply or incorporate with or without modifications or exceptions any provision of any enactment (whenever passed or made) relating to elections or referendums.

### *Electoral Commission*

#### **8 Encouraging voting**

The Electoral Commission may do anything they think necessary or expedient for the purpose of encouraging voting at referendums to be held in pursuance of an order under this Part.

#### **9 Provision of information to voters**

- (1) Subsection (2) applies if—
  - (a) the Secretary of State makes an order under section 1 to cause a referendum to be held in a region about the establishment of an elected assembly for the region, and
  - (b) before the appropriate day the Electoral Commission have not designated (in relation to each possible outcome of the referendum) an organisation under section 108 of the 2000 Act (organisations to whom assistance is available under section 110 of that Act).
- (2) The Electoral Commission may take such steps as they think appropriate to provide for persons entitled to vote in the referendum such information as the Commission think is likely to promote awareness among those persons about the arguments for and against each answer to the referendum question.
- (3) The appropriate day is—
  - (a) the 43rd day of the referendum period if one or more applications under section 109 of the 2000 Act (applications for assistance under section 110 of that Act) is made before the 29th day of the referendum period in relation to each possible outcome of the referendum;
  - (b) the 29th day of the referendum period in any other case.
- (4) But if a Minister of the Crown makes an order under section 109(6) of the 2000 Act the appropriate day is the day specified in the order for the purposes of this section.

- (5) Subsection (6) applies if the Secretary of State makes an order under section 2(2) to cause a referendum to be held about the government's proposals for the structure of local government.
- (6) The Electoral Commission may take such steps as they think appropriate to provide for persons entitled to vote in the referendum such information as the Commission think is likely to promote awareness among those persons about the arguments relating to the options in those proposals.
- (7) Information provided in pursuance of this section must be provided by the means the Commission think is most likely to secure (in the most cost effective way) that the information comes to the notice of all persons entitled to vote in the referendum.

## **10 Expenditure**

- (1) A Minister of the Crown (with the consent of the Treasury) may by order make provision for the payment by the Electoral Commission of any of the following—
  - (a) the charges in respect of services properly rendered or expenses properly incurred by a counting officer in connection with a referendum held in pursuance of an order under this Part;
  - (b) the sum equal to any increase in the superannuation contributions required to be paid by a local authority in respect of any person in consequence of a fee paid as part of a counting officer's charges under paragraph (a).
- (2) The order may include provision as to—
  - (a) the services and expenses or descriptions of services and expenses in respect of which payment may be made;
  - (b) the maximum amount to be paid or reimbursed in respect of such services and expenses or descriptions of services and expenses;
  - (c) payments in advance;
  - (d) accounts to be submitted.
- (3) Counting officer includes a person appointed in pursuance of an order under section 2(9) for the purpose of certifying the number of ballot papers or votes cast in a referendum held in pursuance of an order under section 2(2).

### *Legal challenge*

## **11 Legal challenge**

- (1) No court shall entertain any proceedings for questioning—
  - (a) the number of ballot papers or votes cast in a referendum held in pursuance of an order under section 1 as certified by the Chief Counting Officer for the referendum or by a counting officer;
  - (b) the number of ballot papers or votes cast in a referendum held in pursuance of an order under subsection (2) of section 2 as certified by a person appointed for the purpose in pursuance of an order under subsection (9) of that section, unless the proceedings are brought in accordance with this section.
- (2) The proceedings must be brought by a claim for judicial review.

- (3) The court must not give permission for the claim unless the claim form is filed before the end of the period of six weeks starting with the certificate date.
- (4) The certificate date is—
  - (a) the date on which a certificate as to the matters mentioned in subsection (1)(a) or (b) is given by the Chief Counting Officer, counting officer or other person mentioned in subsection (1)(b);
  - (b) if there is more than one such certificate in a referendum the date on which the last such certificate is given.

### *Supplementary*

## **12 Supplementary**

- (1) This Part does not affect the power of a Minister of the Crown to make provision under section 129 of the 2000 Act (orders regulating the conduct of referendums) for or in connection with a referendum held in pursuance of an order under section 1 above.
- (2) It is immaterial whether the power is exercised before or after the passing of this Act.
- (3) Section 126 of the 2000 Act (identification of promoter and publisher of referendum materials) does not apply to any material published for the purposes of a referendum held in pursuance of an order under section 1 above if the publication is required under or by virtue of an order under section 129(1) of that Act or section 7 above.
- (4) No order may be made under any of the following provisions unless the person making the order first consults the Electoral Commission—
  - (a) section 2(9);
  - (b) section 7(1);
  - (c) section 10(1).
- (5) Expressions used in this Part and in Part 7 of the 2000 Act have the same meaning in this Part as they do in that Part.
- (6) The 2000 Act is the Political Parties, Elections and Referendums Act 2000 (c. 41).
- (7) Subsection (5)—
  - (a) does not apply to references to the Secretary of State;
  - (b) is subject to section 28 below.
- (8) This section applies for the purposes of this Part.