

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 6

Crown status

Schedule 6: Referendums on Commencement of Assembly Act Provisions

697. [Section 103](#) allows a referendum to be held in Wales on whether certain sections in this Act, which give the Assembly power to pass Acts, (referred to in this Act as “the Assembly Act provisions”) should come into force.
698. The referendum is initiated by Her Majesty making an Order in Council.
699. This schedule makes detailed provisions in relation to the referendum.

Paragraph 1: Entitlement to vote

700. The persons entitled to vote in a referendum are those who would be entitled to vote in an Assembly General Election which, in turn, are those who would be entitled in local government elections in Wales.

Paragraph 2: Conduct etc of referendums

701. The Order in Council that Her Majesty may make under section 103 initiating the referendum may also contain other provisions relating to the referendum.
702. The Order in Council may, among other things, apply to the referendum other legislation which relates to elections, referendums or donations (gifts to, payments of expenses of registered political parties etc) as defined in Part 4 of the Political Parties, Elections and Referendums Act 2000.

Paragraph 3: Referendum Question and Statement

703. [Paragraph 3](#) requires the Order in Council to set out the question which voters in the referendum are to be asked.
704. In addition, if the question on the ballot paper is going to be preceded by a statement (e.g. an explanation of the effect of bringing the Assembly Act provisions into force), the statement must be set out in the Order in Council.
705. The effect of section 104(4) of the Political Parties, Elections and Referendums Act 2000 is that the Secretary of State must, at the time when the draft Order in Council is laid before both Houses of Parliament for approval, also lay a report which contains any views expressed by the Electoral Commission on how easily the referendum question or preceding statement can be understood.
706. [Paragraph 3 \(3\)](#) requires the Secretary of State to send a copy of the same report to the First Minister before, or at the same time, as the Secretary of State lays it before Parliament. [Paragraph 3 \(4\)](#) requires the First Minister to lay that report before the

Assembly as soon as reasonably practicable after he has received it from the Secretary of State.

Paragraph 4: Date of Referendum

- 707. Paragraph 4(1) requires the Order in Council to specify the date of the referendum.
- 708. Paragraph 4(2) gives the Secretary of State the power to change the date of the referendum, provided that the Welsh Ministers consent to the change.
- 709. Paragraph 4(4) says that an order made by the Secretary of State changing the date of a referendum is subject to negative Parliamentary procedure.

Paragraph 5: Referendum Period

- 710. Section 102 of the Political Parties, Elections and Referendums Act 2000 provides for a “referendum period ” to be laid down for referendums covered by the 2000 Act. The referendum period is relevant for various provisions under the 2000 Act, such as applying restrictions on incurring referendum expenses.
- 711. This paragraph says that the Order in Council must set out the referendum period relating to the referendum on bringing into force the Assembly Act provisions.

Paragraph 6: Combination of Polls

- 712. Paragraph 6 allows a referendum to be combined with any election (e.g., a local government election) or other referendum due to be held. The Order in Council can include provisions relating to the holding of such combined polls.

Paragraph 7: Encouraging voting

- 713. The Order in Council can authorise or require the Electoral Commission to do things to encourage voting in the referendum.

Paragraph 8: Provision of information to voters

- 714. The effect of section 108 of the Political Parties, Elections and Referendums Act 2000 is that, in a referendum on the coming into force of the Assembly Act provisions, the Electoral Commission can designate two persons or organisations, which meet certain criteria, as eligible to receive financial and other assistance to assist with their campaigns – one which will be campaigning *for* the Assembly Act provisions to come into force, and one which will be campaigning against them coming into force.
- 715. The purpose of this provision is to help to ensure that voters in a referendum have adequate information about the issue on which they are to vote and about the arguments *for* and *against* the possible outcomes.
- 716. Paragraph 8 (2) says that if the Electoral Commission has not, by the appropriate day (see note to paragraph 8 (4)), made a designation of a person or organisation campaigning *for* the Assembly Act provisions coming into force, and one campaigning *against* them coming in to force, then it can itself take steps to ensure that voters are adequately informed about both sides of the argument.
- 717. Paragraph 8(4) : Under section 109(6) of the Political Parties, Elections and Referendums Act 2000, the Secretary of State can make an order varying the deadline by which a person or organisation can apply to be designated to receive assistance, and the deadline by which the Electoral Commission has to decide their application.
- 718. Paragraph 8 (4) says that if the Secretary of State has made such an order, then the day that the order specifies is the appropriate day.

*These notes refer to the Government of Wales Act 2006
(c.32) which received Royal Assent on 25 July 2006*

719. If the Secretary of State does not make an order, and the Electoral Commission has received, by the 29th day of the referendum period:
- a) at least one application from a person/organisation campaigning *for* the Assembly Act provisions coming into force; and
 - b) at least one application from a person/organisation campaigning *against* the Assembly Act provisions coming into force, then the appropriate day is the 43rd day of the referendum period.
720. Otherwise, the appropriate day *is* the 29th day of the referendum period.

Paragraph 9: Referendum Material

721. Section 126 of the Political Parties, Elections and Referendums Act 2000 lays down requirements about what must appear on referendum material.
722. This paragraph says that these requirements do not apply to any material which is required to be published by the Order in Council which initiates the referendum.

Paragraphs 10 and 11: Funding and Accounts

723. [Paragraphs 10](#) and [11](#) say that the Order in Council must say how the referendum is to be funded. It may say that it is to be charged on or payable out of the Welsh Consolidated Fund. It must also deal with arrangements for the preparation and audit of accounts relating to the funding of the referendum.

Paragraph 12: No legal challenge to referendum result

724. The effect of this paragraph is that proceedings questioning the number of ballot papers counted or votes cast in a referendum must be brought by judicial review. The claim must be filed before the end of the permitted period set out in paragraph 12(2).