

EXPLANATORY MEMORANDUM TO
THE REGIONAL ASSEMBLY AND LOCAL GOVERNMENT
REFERENDUMS (COUNTING OFFICERS' CHARGES) ORDER 2004

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

The instrument uses the power in section 10(1) of the Regional Assemblies (Preparations) Act 2003 (“the Preparations Act”) to make provision for payment by the Electoral Commission to counting officers for the expenses and charges the counting officers have for conducting Regional Assembly and local government referendums under that Act.

3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

- 4.1 This Order is to be made under section 10(1) of the Preparations Act, and is the first use of that power.

- 4.2 Counting officers are appointed under the Political Parties, Elections and Referendums Act 2000 in relation to Regional Assembly referendums (s.128). The draft Regional Assembly and Local Government Referendums Order 2004 (“Referendums Order”), which is laid at the same time as this Order, provides that the same persons are the counting officers for local government referendums also held in their voting area. They have responsibility for the conduct of Regional Assembly and local government referendums in their area, subject to direction from the Chief Counting Officer.

- 4.3 This instrument is also related to the draft Regional Assembly and Local Government Referendums (Expenses Limits for Permitted Participants) Order 2004, laid at the same time.

5. **Extent**

- 5.1 This instrument extends to all of the United Kingdom.
- 5.2 It applies however only to counting officers at, and in relation to, referendums held in the English regions under sections 1(1) and 2(2) of the Preparations Act.

6. **European Convention on Human Rights**

- 6.1 The Minister of State for Local Government and Regional Government (Mr. Nick Raynsford), has made the following statement:

“In my view the provisions of the Regional Assembly and Local Government Referendums (Counting Officers’ Charges) Order 2004 are compatible with the Convention rights.”

7. **Policy background**

- 7.1 In place of the traditional approach in Fees & Charges Orders for elections which itemise the expenses for which returning officers may claim, subject to precise limits, the government has adopted the approach recommended by the Electoral Commission's 2003 report *Funding Electoral Services*. The report called for rationalisation of the fees and charges’ mechanisms and changes to the "miscellaneous" heading to give greater freedoms and flexibilities to local managers and to ensure that legitimate costs, reasonably incurred, are efficiently reimbursed. It also recommended that the audit processes for reclaiming the costs of election expenses from central government should be streamlined in negotiation with the National Audit Office and others, limiting the bureaucracy and central costs involved in processing claims.
- 7.2 The Order therefore sets a maximum level of overall expenditure per local authority area (voting area) for which a counting officer is responsible, varying depending on whether a single poll or combined poll is being conducted, the number of electors in the area and the votes handled.
- 7.3 The Order allows the counting officer to claim additional resources from the Electoral Commission if (s)he can demonstrate a strong case. Guidance to expenditure, which also explains how the exceptions process will operate, is to be issued by the Electoral Commission. This guidance has been drawn up following consultation with HM Treasury, the National Audit Office and ODPM.
- 7.4 In drawing up this Order, ODPM officials have worked closely with officials from DCA and the Electoral Commission in regular fortnightly working group meetings. Public consultation with political parties, campaign groups, local authorities and disability organisations on an earlier version of the draft Order was held by ODPM between 15th January 2003 and 16th February 2004. In total, 13 responses were received, mainly from local authorities. A copy of the consultation paper and a report summarising the views expressed is available on the ODPM webpage at: <http://www.odpm.gov.uk/regions>. The majority of respondents agreed with the approach adopted and were content with the operating assumptions that underpinned the levels of funding provided. A minority of respondents suggested that the limits should be raised.

8. **Impacts**

Audit arrangements will ensure that counting officers continue to make good use of their money, but a less prescriptive approach will make the process of completing returns and policing them less resource intensive and costly. No impact on the private or voluntary sector is foreseen.

Costs

On a 100% turnout the average elector cost would be £1.52. The total cost of referendums in the three northern regions would therefore be £16.6 million. The Electoral Commission will draw on the consolidated fund to reimburse Counting Officers for the charges they incur in connection with the referendums.

10. **Contact**

Lise-Anne Boissiere at the Office of the Deputy Prime Minister (tel: 020-7944-5155) or email: lise-anne.boissiere@odpm.gsi.gov.uk can answer any queries regarding the instrument.