
WELSH STATUTORY INSTRUMENTS

2001 No. 2292

The Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001

PART III

DIRECTIONS AND REFERENDUMS

Circumstances in which the National Assembly for Wales may require referendum

18.—(1) The National Assembly for Wales may by a direction in writing to the authority, require the authority, subject to paragraphs (3) and (4), to hold a referendum on whether it should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction—

- (a) where it appears to it that the circumstances are as mentioned in any paragraph of Schedule 2 to these Regulations;
- (b) where it has rejected an authority's application under section 28 (approval of outline fall-back proposals);
- (c) where it appears to it that a direction is necessary to further compliance with the requirements of Part I of the Local Government Act 1999⁽¹⁾ (best value);
- (d) if an authority request it to do so; or
- (e) if a petition organiser requests it to do so.

(2) Where the National Assembly for Wales gives a direction pursuant to paragraph (1)(a), it may specify in the direction—

- (a) the form of executive to be included in proposals drawn up under regulation 19(1)(c);
- (b) details (whether or not in the form of proposals that are to be the subject of the referendum) of—
 - (i) the executive arrangements and their operation; and
 - (ii) any transitional arrangements necessary for the implementation of the proposals on which the referendum is to be held;
- (c) a timetable with respect to the implementation of the proposals;
- (d) the principles or matters to which the authority is to have regard in drawing up the proposals;
- (e) except in a case where details in the form of proposals are specified pursuant to subparagraph (b), in relation to the consultation to be undertaken in drawing up those proposals—
 - (i) the persons with whom consultation is required;
 - (ii) the manner of the consultation; and

- (iii) the matters about which those persons are to be consulted;
- (f) the outline fall-back proposals;
- (g) details (whether or not in the form of proposals) of the detailed fall-back proposals that are to be implemented if the proposals that are to be the subject of the referendum are rejected.

(3) Where a form of executive involving an elected mayor is specified in a petition, a direction given in response to the request of the person who is the petition organiser in relation to that petition shall not require the authority to hold a referendum on proposals involving any other form of executive.

(4) Where a form of executive involving an elected mayor is specified in a petition in consequence of which proposals are drawn up under regulation 17(3), a direction given pursuant to paragraph (1) (a) in respect of those proposals shall not require the authority to hold a referendum on proposals involving any other form of executive.

Action following direction

19.—(1) Subject to paragraphs (2) and (5), on receipt of a direction under regulation 18 in which a matter referred to in any of sub-paragraphs (a) to (e) of paragraph (2) of that regulation is specified, the authority to which the direction is given shall immediately—

- (a) abandon any arrangements made for the holding of a referendum (whether in consequence of a petition or an earlier direction of the National Assembly for Wales) to the extent that those arrangements are inconsistent with the arrangements necessary to conduct the referendum required by the direction;
- (b) abandon all action in respect of any petition received on or before the day on which they receive the direction;
- (c) in accordance with paragraphs (1), (2) and (4) of regulation 20, draw up proposals for the operation of executive arrangements;
- (d) in accordance with paragraphs (3) and (4) of regulation 20, draw up outline fall-back proposals; and
- (e) make arrangements for the holding of a referendum on the proposals drawn up in accordance with sub-paragraph (c) (to the extent required to supplement any arrangements that may continue by virtue of sub-paragraph (a)).

(2) Where, on the day on which the direction is received, the authority—

- (a) is in possession of the first petition submitted to it under Part II of these Regulations (including the single petition resulting from an amalgamation of petitions in accordance with regulation 8(1)), and
- (b) has not complied with regulation 11(2) in relation to it,

the authority shall satisfy itself as to the validity of the petition in accordance with Part II of these Regulations; and, subject to paragraph (3)(b), the direction shall be of no further effect.

(3) Where, in a case to which paragraph (2) applies—

- (a) the authority is satisfied that the petition is valid, it shall comply with regulation 13; and the direction under regulation 18 shall be treated as revoked with effect from the date on which notice is given under regulation 13(1);
- (b) the authority is satisfied that the petition is invalid, it shall comply with regulation 14; and the direction under regulation 18 shall be treated as effective from the date on which notice is given under regulation 14(1).

(4) On receipt of a direction under regulation 18 in which a matter referred to in sub-paragraph (f) or (g) of paragraph (2) of that regulation is specified, the authority to which the direction is given shall immediately take the steps necessary to give effect to the direction.

(5) Where—

- (a) the authority to which a direction under regulation 18 has been given receives a petition submitted to it under Part II of these Regulations (including the single petition resulting from an amalgamation of petitions in accordance with regulation 8(1));
- (b) the petition is received before it has given notice of the date on which the referendum is to be held pursuant to the direction;
- (c) the petition proposes a constitutional change different from that in relation to which the direction requires a referendum to be held; and
- (d) the proper officer determines, in accordance with Part II, that the petition is a valid petition,

the direction shall be treated as revoked with effect from the date of the proper officer's determination.

(6) In a case to which paragraph (5) applies, the authority shall notify the National Assembly for Wales and the petition organiser of the date of the proper officer's determination; and shall include that notification in the notification required by regulation 13(1).

Requirements as to proposals

20.—(1) In drawing up proposals under regulation 19(1)(c) the authority shall—

- (a) where the direction specifies details, a form of executive or a timetable, include those details, that form of executive or that timetable;
- (b) where the direction requires regard to be had to principles or matters, have regard to those principles or matters;
- (c) where the direction requires consultation with specified persons, or in a specified manner or about specified matters, consult those persons, in that manner or about those matters, as the case may be;
- (d) consider the extent to which its proposals, if implemented, are likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- (e) subject to sub-paragraphs (a) to (d)—
 - (i) decide which form the executive is to take;
 - (ii) decide the extent to which the functions specified in regulations under section 13(3) (b) are to be the responsibility of the executive; and
 - (iii) take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(2) Without prejudice to paragraph (1)(a), proposals under regulation 19(1) (c) shall include—

- (a) such details of the executive arrangements as the National Assembly for Wales may direct,
- (b) a timetable with respect to the implementation of the proposals, and
- (c) details of any transitional arrangements which are necessary for the implementation of the proposals.

(3) The authority's proposals under regulation 19(1)(d)—

- (a) where the authority is not then operating executive arrangements or alternative arrangements—

- (i) may not be drawn up before the authority has taken reasonable steps to consult the local government electors for, and other interested persons in, its area;
 - (ii) shall include such details of the executive arrangements or alternative arrangements to which they relate as the National Assembly for Wales may direct;
 - (iii) shall include a timetable with respect to the implementation of the detailed fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected; and
 - (iv) may include, as the authority's outline fall-back proposals, any proposals under subsection (1) of section 28 (approval of outline fall-back proposals) approved by the National Assembly for Wales;
- (b) where the authority is then operating executive arrangements or alternative arrangements, shall consist of a summary of those arrangements.
- (4) In drawing-up proposals under regulation 19(1)(c) and (d) an authority—
- (a) shall comply with any directions given by the National Assembly for Wales; and
 - (b) shall have regard to any guidance for the time being issued by the National Assembly for Wales under section 38.
- (5) Not later than two months before the date on which the referendum is to be held, the authority shall send to the National Assembly for Wales—
- (a) a copy of the proposals drawn up under regulation 19(1)(c) and (d); and
 - (b) a statement which describes—
 - (i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and
 - (ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.

Time for holding referendum required by direction

21.—(1) Subject to paragraphs (2) to (4), a referendum required by a direction under regulation 18 shall be held not later than the end of the period of six months beginning with the date of the direction or, in a case to which paragraph (6) of regulation 7 applies, the date that is treated, in accordance with that paragraph, as the date of the direction.

(2) A referendum shall not be held before the end of the period of two months beginning with the date on which proposals and a statement are sent to the National Assembly for Wales in accordance with regulation 20(5).

(3) A referendum under this Part may not be held on—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Wales, or
- (c) any day appointed as a day of public thanksgiving or mourning.

(4) Paragraph (1) shall not apply where the National Assembly for Wales holds a referendum in exercise of the power conferred by regulation 25.

(5) Where the National Assembly for Wales—

- (a) in exercise of the power conferred by regulation 25, draws up outline fall-back proposals or proposals for the operation of executive arrangements; and
- (b) directs an authority to hold a referendum on those proposals,

the authority shall hold the referendum not later than the end of the period of two months beginning with the date of the National Assembly for Wales' direction.

Publicity for referendum required by direction

22.—(1) The authority to which a direction under regulation 18 is given shall, not later than one month after the date of the direction, publish in at least one newspaper circulating in its area a notice which—

- (a) sets out the terms of the direction; and
- (b) contains a statement—
 - (i) that a direction in the terms set out in the notice has been given by the National Assembly for Wales requiring a referendum to be held;
 - (ii) of the form of executive to be included in the proposals that are to be the subject of the referendum; and
 - (iii) that a referendum will be held.

(2) An authority may include in the notice to be published in accordance with paragraph (1), or may otherwise provide to any person (whether or not in pursuance of any duty to do so), any other factual information relating to the direction so far as it is presented fairly.

(3) In determining for the purposes of paragraph (2) whether any information is presented fairly, regard shall be had to any guidance for the time being issued by the National Assembly for Wales under section 38.