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WELSH STATUTORY INSTRUMENTS

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**2004 No. 870**

**The Local Authorities (Conduct of  
Referendums) (Wales) Regulations 2004**

**Determination of referendum petitions, and subsequent procedures**

**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, as the case may be, is not in accordance with the votes cast, any reference (in whatever terms) in the timetable —

- (a) included in their proposals under regulation 17(3)(a) or 19(1)(c) of the Petitions and Directions Regulations<sup>(1)</sup>;
- (b) regulation 17(7)(a)(ii), or 20(3)(a)(iii) of those Regulations; or
- (c) prepared pursuant to any other regulations or an order made under any provision of Part II (arrangements with respect to executives etc.) of the 2000 Act,

to the date of the result of the referendum shall be construed as a reference to the date on which the election court certifies its determination.

(2) Where an election court certifies, as its determination of a referendum petition specifying any of the grounds mentioned in regulation 15(1)(b) to (d), that the referendum was avoided, the local authority concerned shall, not earlier than two months, and not later than three months, after the election court has certified its determination in the matter of the referendum petition, hold another referendum.

(3) On the substantive hearing of a referendum petition for which leave has been granted where the circumstances are as mentioned in regulation 16(4)(a) and (b), the election court shall either —

- (a) dismiss the petition; or
- (b) allow the petition,

and, where the court allows the petition, it shall declare the referendum to be tainted, and order that a further referendum be held.

(4) Where an election court makes such an order as is mentioned in paragraph (3), the local authority shall hold the further referendum as soon as reasonably practicable after the expiration of the period of five years beginning with the date on which the tainted referendum was held.

(5) If the majority of the votes cast in a further referendum are “yes” votes where the local authority are operating executive arrangements, they shall continue to operate those arrangements unless and until they are authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of their existing executive arrangements.

(6) Subject to paragraphs (7), (8) and (9), if the majority of the votes cast in the further referendum are “no” votes, the local authority shall implement the proposals that were their outline fall-back proposals at the time of the tainted referendum.

(7) Where the local authority’s outline fall-back proposals are the executive or alternative arrangements which they were operating at the date of the tainted referendum, subsection (13) of section 27 shall apply to the implementation of detailed fall-back proposals as if, for “in accordance

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(1) See, in particular, regulations 17(5)(b) and 20(2)(b).

with the timetable mentioned in subsection (4)” there were substituted “as soon as reasonably practicable”.

(8) Where the local authority’s outline fall-back proposals are executive arrangements which involve a form of executive for which a referendum is not required<sup>(2)</sup> —

- (a) subsection (1) of section 29 (operation of, and publicity for, executive arrangements) shall apply for the purpose of enabling the local authority to operate the executive arrangements set out in their detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate executive arrangements in other circumstances; and
- (b) subsection (2) of that section shall apply 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 local authority’s existing executive arrangements, the local authority have resolved to operate the different executive arrangements that were described in their outline fall-back proposals at the time of the referendum.”.

(9) Where the local authority’s outline fall-back proposals are alternative arrangements —

- (a) subsection (2) of section 33 (operation of alternative arrangements) shall apply for the purpose of enabling the local authority to operate the alternative arrangements set out in their detailed fall-back proposals as it applies for the purpose of enabling a local authority to operate alternative arrangements in other circumstances; and
- (b) subsection (2) of section 29<sup>(3)</sup> shall apply 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 local authority’s existing executive arrangements the local authority have resolved to operate the alternative arrangements that were described in their outline fall-back proposals at the time of the referendum.”.

(10) These Regulations, except where the context otherwise requires, shall 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 4 —

- (i) in paragraph (1), the omission of sub-paragraph (a);
- (ii) in sub-paragraph (b) of that paragraph, the substitution, for “the proposals”, of “the local authority’s existing executive arrangements”;
- (iii) in paragraph (vii) of sub-paragraph (c), the substitution, for “a copy of the proposals”, of “a document in which are set out the main features of the local authority’s existing executive arrangements”;
- (iv) in paragraph (viii) of that sub-paragraph, the substitution, for “the proposals and”, of “that document and those”;
- (v) after paragraph (viii) of that sub-paragraph the insertion of the following paragraph —
  - “(ix) that the referendum is being held in consequence of the determination of an election court that the referendum last held in the local 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.”;
- (vi) in paragraph (4), the substitution, for “a copy of their proposals”, of “a document in which are set out the main features of the local authority’s current executive arrangements”; and

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<sup>(2)</sup> See section 26 of the Local Government Act 2000.

<sup>(3)</sup> See section 33(3) of the Local Government Act 2000.

- (vii) in paragraph (5), the substitution, for “the proposals”, of “the main features of the local authority’s current executive arrangements”; and
- (b) the substitution of paragraph 1 of Part I of Schedule 1, by —

At the mayoral referendum held on *[insert date as appropriate]* the electorate for *[insert name of local authority]* approved the proposal that a mayor should lead that *[insert "county" or "county borough" as appropriate]* and be responsible for making decisions about council services together with a "cabinet" of elected councillors appointed by that mayor. On *[insert date as appropriate]* the Election Court declared that mayoral referendum to be tainted. The Election Court ordered that a further referendum be held.

Should the majority of votes cast in this further referendum be "no" votes, *[insert name of local authority]* will implement *[executive]\* [alternative]\** arrangements consisting of [a leader elected by the authority and a cabinet of elected councillors]\* [an elected mayor and council manager appointed as such by the authority]\* [a politically balanced board]\* responsible for making decisions about local council services.

*\*delete as appropriate*

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Question

Are you in favour of *[insert name of local authority]* continuing to be led by a mayor together with a cabinet of elected councillors?

- (c) the substitution of paragraph 2 of Part I of Schedule 1 by —

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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At the mayoral referendum held on *[insert date as appropriate]* the electorate for *[insert name of local authority]* approved the proposal that a mayor should lead that *[insert "county" or "county borough" as appropriate]* and be responsible for making decisions about council services together with an officer of that *[insert "county" or "county borough" as appropriate]* appointed as "council manager" by elected councillors. On *[insert date as appropriate]* the Election Court declared that mayoral referendum to be tainted. The Election Court ordered that a further referendum be held.

Should the majority of votes cast in this further referendum be "no" votes, *[insert name of local authority]* will implement *[executive]\* [alternative]\** arrangements consisting of *[an elected mayor and a cabinet of elected councillors appointed by the mayor]\* [a leader elected by the authority and a cabinet of elected councillors]\* [a politically balanced board]\** responsible for making decisions about local council services.

*\*delete as appropriate*

#### Question

Are you in favour of *[insert name of local authority]* continuing to be led by a mayor together with a council manager?

(11) 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 (4), the election court shall either —

- (a) dismiss the petition; or
- (b) allow the petition,

and, where the court allows the petition, it shall declare the referendum avoided.