

SCHEDULE 5

Regulation 15(8)

APPLICATION, WITH FURTHER MODIFICATIONS, OF THE REPRESENTATION OF THE PEOPLE ACT 1983 IN RELATION TO REFERENDUM PETITIONS

<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
Section 128 (presentation of petition questioning local election)	<p>In subsection (1) —</p> <p>(a) for “under the local government Act” substitute “under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”; and</p> <p>(b) omit “either” and the words from “, or by a person” to the end.</p> <p>In subsection (2), for the words from the beginning to “any”, substitute “Any”.</p> <p>In paragraph (a) of subsection (3), omit “in England and Wales,”.</p> <p>In subsection (4), omit “In England and Wales.”.</p>
Section 129 (time for presentation or amendment of petition questioning local election).	<p>In subsection (1), for “under the local government Act” substitute “under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”;</p> <p>In subsection (2), in paragraph (b), for “a candidate elected at the election”, substitute “any person”.</p> <p>In subsection (3), in paragraph (b), for “the candidate elected at the election, or by an agent of the candidate or with the privity of the candidate or his election agent”, substitute “any person”.</p> <p>Omit subsections (4) and (5).</p>
	<p>For subsection (7), substitute —</p> <p>“(7) Subsections (3) and (6) above apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.”</p> <p>In subsection (8), after “below” insert “, as applied by regulation 15 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004,”.</p>

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<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
	Omit subsection (9).
Section 130 (election court for local election in England and Wales, and place of trial)(1)	In subsection (1), for “in England and Wales under the local government Act”, substitute “in Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004.”.
Section 131 (accommodation of and attendance on court)	In paragraph (a) of subsection (3), for “in England and Wales under the local government Act”, substitute “in Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004.”.
Section 132 (remuneration and allowances)	In subsection (1) — (a) after “section 130 above” insert “as applied by regulation 15 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”, and (b) after “section 132 below” insert “as so applied”.
Section 133 (repayments under section 131 and 132)	In subsection (1) — (a) in paragraph (a), after “section 131 above”, insert “as applied by regulation 15 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”; and (b) in paragraph (b), after “section 132 above”, insert “as so applied”.
Section 136 (security for costs)	In subsection (2), in paragraph (b), for “a petition questioning an election under the local government Act” substitute “a referendum petition within the meaning of regulation 15 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”.
Section 137 (petition at issue)	
Section 138 (list of petitions)(2)	In subsection (1), in paragraph (a), for “all election petitions”, substitute “all referendum petitions within the meaning of regulation 15 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”.

(1) Section 130 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 10, paragraph 50.

(2) Section 138 was amended by the Political Parties, Elections and Referendums Act 2000, Schedule 17, paragraph 4.

<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
Section 139 (trial of petition)	<p>In subsection (3) for the words from the beginning to “candidates”, substitute “Two or more persons”.</p> <p>In subsection (4) —</p> <p>(a) for “the same election or to elections under the local government Act”, substitute “the same referendum or to referendums under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”; and</p> <p>(b) for “the election list”, in both places, substitute “the list made out under subsection (1)”.</p> <p>In subsection (1) omit “, in the case of a parliamentary election petition, 14 days and in any other case,”.</p> <p>Omit subsection (3).</p> <p>For subsection (5) substitute —</p> <p>“(5) On the trial of a petition, the respondent may give evidence in the same manner as if that person had presented a petition against the referendum.”.</p> <p>For subsection (6) substitute —</p> <p>“(6) Where the petition relates to a referendum as regards which, by reason of an equality of votes found at the count, the result was determined by lot, that determination shall be effective also for the purposes of the petition unless subsection (6A) applies.</p> <p>(6A) This subsection applies where the court disallows any vote cast in the referendum; and in any such case —</p> <p>(a) the determination referred to in subsection (6) above shall have no effect; and</p> <p>(b) the court shall declare the result of the referendum.</p> <p>(6B) Where —</p> <p>(a) the petition relates to a referendum at which no equality of votes was found at the count; and</p> <p>(b) the court —</p>

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<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
	<ul style="list-style-type: none"> <li>(i) disallows any vote cast in the referendum; and</li> <li>(ii) determines that an equality of votes was cast in the referendum, the result of the referendum shall be determined by the court by lot.”.</li> </ul>
Section 140 (witnesses)	In subsection (1), omit “, but this subsection does not apply to Scotland in relation to an election of councillors”.
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	<p>In subsection (2) —</p> <ul style="list-style-type: none"> <li>(a) after “section 140(2) above”, insert “as applied for the purposes of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004”; and</li> <li>(b) after “subsection (1) above”, insert “as so applied”.</li> </ul>
Section 145 (conclusion of trial of local election petition)	<p>For subsection (1), substitute the following subsections —</p> <p>“(1) At the conclusion of the trial of a petition questioning a referendum under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004, the election court shall determine —</p> <ul style="list-style-type: none"> <li>(a) in the case of a petition presented on the ground mentioned in subparagraph (a) of paragraph (1) of regulation 15 of those Regulations, whether the result of the referendum was, or was not, in accordance with the votes cast in the referendum;</li> <li>(b) in the case of a petition presented on the ground mentioned in subparagraph (b) or (c) of that paragraph, whether the referendum was void.</li> </ul> <p>(1A) Where the election court makes such a determination as is referred to in subsection (1) (a), it shall, as the circumstances require —</p> <ul style="list-style-type: none"> <li>(a) confirm the result of the referendum; or</li> <li>(b) reverse the result of the referendum.”. </li></ul>
<i>Subsection (1), as substituted, is not to apply where a referendum petition has been presented with the leave of the High Court (see regulation 15(3))</i>	
	<p>In subsection (3) —</p> <ul style="list-style-type: none"> <li>(a) for “sections 158 and”, substitute “section”; and</li> </ul>

<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
	(b) for the words from “for which” to the end, substitute “by which or in respect of which the referendum was held.”.
	In subsection (6), for “for which the election was held”, substitute “by which or in respect of which the referendum was held.”.
Section 146 (special case for determination of High Court)	Omit subsection (2).  In subsection (3), for the words “In the case of a petition questioning an election in England and Wales under the local government Act,” substitute “In the case of a referendum petition under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004,”.
Section 147 (withdrawal of petition)	
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	In subsection (1) omit paragraph (a).  In subsection (2) after “this Act”, insert “as applied for the purposes of the referendum petition”.
Section 156 (further provision as to costs)	
Section 157 (appeals and jurisdiction)(3)	Omit subsection (4).
Section 160(1) and (3) (persons reported personally guilty of corrupt practices)(4)	In subsection (1), omit paragraph (b).
Section 161 (Justice of the Peace)	
Section 162 (member of legal and certain other professions)	
Section 163 (holder of licence or certificate under Licensing Acts)	
Section 164(1) and (2) (avoidance of election for general corruption etc.)	In subsection (1) — (a) for “election”, in the first two places where that word appears, substitute “referendum”; (b) for “the election of any person at that election”, substitute “a particular outcome in relation to the question asked in the referendum”; and (c) for paragraphs (a) and (b), substitute “, the referendum, if that outcome was achieved, shall be void.”.

(3) Section 157 was amended by the Political Parties, Elections and Referendums Act 2000, Schedule 17, paragraph 6.

(4) Subsection (1) was amended, subsection (2) repealed, and subsection (3) substituted, by the Representation of the People Act 1985, Schedule 4, paragraph 52 and Schedule 5.

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<i>(1)</i> <i>Provision</i>	<i>(2)</i> <i>Further Modifications (if any)</i>
Section 167 (application for relief)	In subsection (2), for “An election”, substitute “A referendum”.
Section 180 (evidence by certificate of holding of election)	Omit sub-paragraph (ii) and the word immediately preceding it.
Section 183 (costs)	
Section 184 (service of notices)	
In section 185 (interpretation of Part III), the definitions of “appropriate officer”, “costs”, “Licensing Acts” and “payment”.	

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