
STATUTORY INSTRUMENTS

2000 No. 2852

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000

<i>Made</i>	- - - -	<i>19th October 2000</i>
<i>Laid before Parliament</i>		<i>26th October 2000</i>
<i>Coming into force</i>	- -	<i>16th November 2000</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by sections 34, 35 and 105(2) of the Local Government Act 2000(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 and shall come into force on 16th November 2000.

(2) These Regulations extend to England only and, accordingly, references in these Regulations to a local authority are references to a local authority in England(2).

General interpretation

2.—(1) In these Regulations—

“the Act” means the Local Government Act 2000; and

“outline fall-back proposals” means an outline of the proposals that a local authority intend to implement if proposals that are to be the subject of a referendum under Part II or Part III of these Regulations are rejected in that referendum.

(1) 2000 c. 22.

(2) See the definition of “local authority” in section 48(1) of the Local Government Act 2000.

(2) Except in the definition of “proper officer” in regulation 3(1), any reference in these Regulations to a section followed by a number is a reference to the section bearing that number in the Act.

PART II

PETITIONS AND REFERENDUMS

Interpretation of Part II

3. In this Part—

“amalgamated petition” means the single petition resulting from an amalgamation of petitions in accordance with paragraph (1) or (2) of regulation 8;

“constituent petitions” means petitions that have been amalgamated;

“constitutional change” means a proposal that a local authority should operate executive arrangements—

(a) under which the executive—

(i) takes the form specified in subsection (2) or (4) of section 11 (local authority executives); or

(ii) otherwise includes an elected mayor, or

(b) in a form that, apart from an elected mayor, is not specified in the proposal;

“moratorium period”, in relation to a local authority’s area and a petition, means the period of 48 months commencing with the day on which a referendum was last held under Part II of the Act in relation to that area;

“notice period”, in relation to a petition, means the period of one month beginning with the petition date;

“petition”, unless the context otherwise requires, includes an amalgamated petition;

“petition date”—

(a) in relation to a petition submitted prior to the publication of the verification number in accordance with regulation 4(1) means the date on which that verification number is published;

(b) subject to paragraph (d), in relation to constituent petitions amalgamated in accordance with regulation 8(2), means the latest date on which any of petitions amalgamated was received by the authority;

(c) subject to paragraph (d), in relation to any other petition, means the date on which it was received by the authority;

(d) in relation to a petition received within the period of six months beginning with the date that is twelve months before the earliest date on which a second (or subsequent) referendum may lawfully be held in the area of the authority to whom the petition is addressed, means the date on which that period of six months ends;

“petition organiser”—

(a) in relation to constituent petitions amalgamated in accordance with paragraph (1) of regulation 8, means the person determined in accordance with paragraph (5) of regulation 10;

(b) in any other case, has the meaning given by paragraph (4) of regulation 10;

“post-announcement petition” means a petition received in the circumstances mentioned in regulation 7(1);

“proper officer” has the meaning given by section 270(3) of the Local Government Act 1972(3);

“valid petition” has the meaning given by regulation 9(1);

“verification number”, in relation to a petition, means the number to be used for verification purposes by virtue of paragraph (4), (5), (6) or (7) of regulation 4, as the case may be; and

“verification purposes” means the purposes of establishing the matters mentioned in regulations 8(3) and 9(1)(a).

Verification number

4.—(1) Not later than four weeks after the date on which these Regulations come into force, the proper officer of each local authority shall publish the number that is equal to 5 per cent. of the number of local government electors for the authority’s area as shown in the electoral register or registers published and having effect for the authority’s area for the period ending on 15th February 2001(4).

(2) Subject to paragraph (3), in each year after 2000, the proper officer of each local authority shall, within the period of 14 days beginning on the date of publication of the electoral register or registers having effect for the authority’s area(5), publish the number that is equal to 5 per cent. of the number of local government electors for the authority’s area shown in that register or, as the case may be, those registers.

(3) Where the whole of the period of 12 months beginning with 1st April in any year falls within a moratorium period, paragraph (2) shall not apply as respects the years in which part of that period of 12 months falls.

(4) Subject to paragraph (5), the number published in accordance with paragraph (1) shall be used for verification purposes in relation to any petition submitted to the authority before 1st April 2001.

(5) Where the number published in 2001 in accordance with paragraph (2) (“the number for 2001”) is less than the number published in accordance with paragraph (1), the number to be used for verification purposes in relation to any petition submitted in the period beginning with the date on which the number for 2001 is published and ending immediately before 1st April 2001 shall be the number for 2001.

(6) Subject to paragraph (7), the number published in any year after 2001 in accordance with paragraph (2) shall be used for verification purposes in relation to any petition submitted to the authority in the period of 12 months beginning with 1st April in that year.

(7) Where the number published in any year is less than the number published in the preceding year, the number to be used for verification purposes, in relation to any petition submitted to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1st April in that year, shall be that lesser number.

(8) The proper officer may, in connection with the discharge of the duties imposed by paragraphs (1) and (2), require an electoral registration officer to provide him with information relevant to the number that is to be published in accordance with either of those paragraphs; and an electoral registration officer who receives such a request shall comply with it within the period of seven days beginning with the day on which the request is received.

(3) 1972 c. 70.

(4) See section 13 of the Representation of the People Act 1983 (c. 2).

(5) Not later than 15th February; see section 13 of the Representation of the People Act 1983.

Publicity for verification number

5. As soon as reasonably practicable after the publication of a number in accordance with regulation 4(1) or (2), the authority shall publish in at least one newspaper circulating in their area a notice containing a statement—

- (a) that the authority's proper officer has published the number that is equal to 5 per cent. of the number of local government electors shown in the electoral register or registers having effect for the authority's area for the period ending on 15th February in the following year;
- (b) of the number so published;
- (c) that the number so published will have effect—
 - (i) where it is published in the circumstances mentioned in paragraph (1) of regulation 4, for the purposes of determining the validity of petitions presented before 1st April 2001, unless the circumstances mentioned in paragraph (5) of that regulation apply;
 - (ii) in any other case, for the purposes of determining the validity of petitions presented after 31st March in the year of publication and before 1st April in the following year, unless the circumstances mentioned in paragraph (7) of regulation 4 apply;
- (d) of the effect of paragraphs (5) and (7) of regulation 4; and
- (e) of the address of the authority's principal office.

Petitions for a referendum

6.—(1) Subject to regulations 7 and 19, a local authority shall hold a referendum by virtue of this Part where they receive a valid petition (but shall not be required to hold such a referendum where they receive a petition which is not a valid petition).

- (2) A petition may be presented to a local authority—
 - (a) by properly addressing, pre-paying and posting it to any office of the authority; or
 - (b) by delivering it to any such office.

Post-announcement and post-direction petitions

7.—(1) In relation to a petition received after an authority have given notice of their intention to hold a referendum and of the date on which that referendum will be held (whether pursuant to this Part, a direction under regulation 18, or section 27 (referendum in case of proposals involving elected mayor)) on proposals which involve a directly elected mayor, nothing in this Part shall require an authority to hold a referendum or to take any steps other than those specified in paragraph (2) and regulation 12.

(2) The steps specified in this paragraph are to secure that the proper officer, as soon as reasonably practicable after the receipt of the petition—

- (a) notifies the Secretary of State and the petition organiser (if any)—
 - (i) of the receipt of the petition;
 - (ii) that the petition is a post-announcement petition; and
 - (iii) that the authority propose to take no further action in relation to it;
 and
 - (b) notifies the petition organiser (if any) that he may, within the period of two months beginning with the date of the notice, request the Secretary of State to consider the exercise of any power conferred on the Secretary of State by Part III of these Regulations.
- (3) Where—

- (a) a petition is received by an authority—
 - (i) after they have received a direction under regulation 18(1); and
 - (ii) before they have given notice of the date on which the referendum is to be held pursuant to the direction; and
- (b) the constitutional change proposed in the petition is the same as that in relation to which the direction requires the referendum to be held,

the authority shall take no further action in relation to the petition and shall, as soon as reasonably practicable, comply with the requirements of paragraph (4).

- (4) The authority shall notify the Secretary of State and the petition organiser (if any)—
 - (a) of the receipt of the petition; and
 - (b) that they propose to take no further action in relation to it because it proposes the same constitutional change as that in relation to which the referendum is to be held pursuant to the direction.

- (5) Where—
 - (a) a petition is received by an authority—
 - (i) after they have received a direction under regulation 18(1); and
 - (ii) before they have given notice of the date on which the referendum is to be held pursuant to the direction; and
 - (b) the constitutional change proposed in the petition is not the same as that in relation to which the direction requires the referendum to be held,

the authority shall secure that the proper officer determines, in accordance with this Part, whether the petition is a valid petition.

(6) Where the proper officer determines that a petition of the description in paragraph (5) is not a valid petition, he shall comply with regulation 14(1) but, subject to that—

- (a) the authority shall take no further action in relation to the petition; and
- (b) for the purposes of regulation 21, the date of the direction shall be treated as the date of the proper officer's determination.

- (7) For the purposes of paragraphs (3) to (5)—
 - (a) in relation to a direction under regulation 18(1) that requires an authority to hold a referendum on a form of executive that includes an elected mayor, a petition received subsequently by that authority in which the form of executive is not specified, shall be treated as proposing the same constitutional change; and
 - (b) other constitutional changes shall be treated as the same if they propose executive arrangements under which the executive takes the same form.

Amalgamation of petitions

8.—(1) Where more than one petition relating to the same area has been prepared, those petitions may, at any time before their presentation to the authority, be amalgamated; and those petitions shall then be treated for all other purposes of this Part as a single petition.

(2) Where constituent petitions amalgamated under paragraph (1) do not propose the same constitutional change, the amalgamated petition shall not be entertained by the authority unless it is accompanied by a statement, signed by the petition organiser in relation to the amalgamated petition, that the amalgamated petition is presented with the agreement of the petition organiser of each of the constituent petitions.

(3) Subject to paragraphs (4) and (5), where an authority receive more than one petition relating to the same area, the proper officer shall, if satisfied as to their validity in every respect other than that mentioned in regulation 9(1)(a), amalgamate those petitions in accordance with paragraph (6); and those petitions shall then be treated for all other purposes of this Part as a single petition.

(4) The proper officer shall not amalgamate petitions—

(a) if he is satisfied that the first petition received by the authority (including constituent petitions amalgamated in accordance with paragraph (1)) contains a number of signatures of local government electors for the authority's area that equals or exceeds the verification number and is, in other respects, a valid petition; or

(b) if he is satisfied that the first and other constituent petitions amalgamated in accordance with paragraph (3) contain numbers of signatures of local government electors for the authority's area that in aggregate equal or exceed the verification number and are, in other respects, valid petitions.

(a) (5) (a) The proper officer shall not amalgamate petitions that do not propose the same constitutional change unless he has obtained in writing the agreement of the petition organiser of each petition that would, after amalgamation, be a constituent petition.

(b) It shall be the duty of the proper officer to inform each petition organiser whose agreement is required for the purposes of paragraph (3) of the consequence of amalgamation specified in paragraph (7) below.

(6) Petitions shall be amalgamated in the order in which they are received except that, where more than one petition is received on the same day—

(a) the petition that contains the greatest number of signatures shall be treated as the first to be received;

(b) the petition that proposes the same constitutional change as that proposed in the petition identified in accordance with sub-paragraph (a) shall be treated as the second to be received; and if there is more than one such petition, those petitions shall be treated as received in sequence, beginning with the petition that contains the greater number of signatures;

(c) any other petitions shall be treated as received in the following order—

(i) the petition that contains the greatest number of signatures;

(ii) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with paragraph (i);

(iii) the petition that contains the next greatest number of signatures;

(iv) the petition, if any, that proposes the same constitutional change as the petition identified in accordance with paragraph (iii);

(v) the petition that contains the next greatest number of signatures; and so on.

(7) Where an amalgamated petition results from the combination of constituent petitions which do not propose the same constitutional change, the amalgamated petition shall be treated for the purposes of this Part as proposing that the authority should operate executive arrangements under which the proposed form of executive is not specified.

(8) For the purposes of this regulation, constitutional changes shall be treated as the same—

(a) if they propose executive arrangements under which the executive takes the same form; or

(b) if the proposed form of executive is not specified in the constituent petitions.

Validity of petitions

9.—(1) Subject to paragraph (2), a petition shall be a valid petition if—

- (a) it is signed (whether before or after the passing of the Act or the coming into force of these Regulations) by not less than the number of local government electors for the authority's area that is the verification number; and
 - (b) it satisfies the requirements of regulation 10.
- (2) A petition shall not be invalid by reason only of a failure to satisfy any requirement of regulation 10 if the constitutional change in relation to which the referendum is sought can be ascertained.
- (3) Where a person signs a petition but the information referred to in regulation 10(3)(a) is not included, or is not included in a legible form, that person's signature shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).
- (4) If a person signs a petition more than once, his second or subsequent signature shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).
- (5) Any signature on a petition which bears a date earlier than 12 months before the petition date shall be disregarded in determining whether the petition satisfies the requirements of paragraph (1)(a).

Formalities of petition

- 10.**—(1) A petition shall on each sheet state—
- (a) the name of the local authority to whom it is addressed; and
 - (b) the constitutional change in relation to which the referendum is sought.
- (2) A petition shall, on each sheet, contain a statement in the terms set out in Schedule 1 to these Regulations or in terms to similar effect.
- (3) In relation to each person who signs a petition the following information shall be given—
- (a) his first name and surname and address; and
 - (b) the date on which he signs the petition.
- (4) A petition shall contain, or shall be accompanied by a statement that contains, the name and full address of the person (in this Part referred to as the "petition organiser") to whom correspondence relating to the petition is to be sent.
- (5) Where petitions are amalgamated before they are presented to the authority—
- (a) the petition organisers of each of the constituent petitions shall determine the identity of the person (whether or not he is the petition organiser of any of the constituent petitions) who is to be the petition organiser for the purposes of the amalgamated petition; and
 - (b) the petition organiser of the amalgamated petition shall notify the authority of his name and full address.

Procedure on receipt of petition

- 11.**—(1) As soon as reasonably practicable after receipt of a petition, the proper officer shall—
- (a) if paragraph (3) of regulation 8 applies in relation to the petition—
 - (i) amalgamate it in accordance with that paragraph; and
 - (ii) notify the petition organiser (if any) of each of the constituent petitions, of the petition date of the amalgamated petition; or
 - (b) in any other case, notify the petition organiser (if any) of the petition date.

(2) As soon as reasonably practicable after receipt of a petition, and not later than the end of the notice period, the proper officer shall, subject to paragraph (3), satisfy himself as to the validity of the petition.

(3) Where the petition is a second (or subsequent) petition (“later petition”) which cannot lawfully be amalgamated with an earlier petition for a reason mentioned in paragraph (4) or (5) of regulation 8, the proper officer shall take the steps specified in paragraph (4) below, and such other steps as the Secretary of State may direct.

- (4) The steps specified in this paragraph are that, within the notice period, the proper officer—
- (a) shall notify the Secretary of State and the petition organiser (if any)—
 - (i) of the receipt of the petition and of its petition date;
 - (ii) of the receipt of every earlier petition and of its petition date;
 - (iii) of the reason why the later petition cannot be amalgamated with any earlier petition; and
 - (iv) that, by reason of the receipt of an earlier valid petition, the proper officer proposes to take no further action in relation to the later petition; and
 - (b) shall notify the petition organiser (if any) that he may, within the period of two months beginning with the date of the notice, request the Secretary of State to consider the exercise of any power conferred on the Secretary of State by regulation 18.

Public inspection of petitions

12. The authority shall secure that, for the period of six years beginning with the petition date, a petition is available at their principal office for inspection by members of the public at all reasonable times and free of charge.

Publicity for valid petitions

13.—(1) Where the proper officer is satisfied that a petition is valid, he shall, within the notice period, notify the Secretary of State and the petition organiser (if any)—

- (a) of his conclusion; and
- (b) that a referendum will be held.

(2) In a case to which paragraph (1) applies, the authority shall publish in at least one newspaper circulating in their area a notice which contains a statement—

- (a) that a valid petition has been received;
- (b) of the constitutional change sought or, as the case may be, treated as sought, by the petition;
- (c) of the petition date;
- (d) that the petition is available at the authority’s principal office for inspection by members of the public at all reasonable times and free of charge;
- (e) of the address of the authority’s principal office; and
- (f) that a referendum will be held.

Publicity for invalid petitions

14.—(1) Where the proper officer is satisfied that a petition is not a valid petition, he shall, within the notice period, notify the Secretary of State and the petition organiser (if any) of his conclusion and of the reasons for that conclusion.

(2) In a case to which paragraph (1) applies, the authority shall publish in at least one newspaper circulating in their area a notice which contains a statement—

- (a) that a petition has been received which has been determined to be an invalid petition;
- (b) of the reasons for that determination;
- (c) of the constitutional change sought or, as the case may be, treated as sought, by the petition;
- (d) of the petition date;
- (e) that the petition is available at the authority's principal office for inspection by members of the public at all reasonable times and free of charge; and
- (f) of the address of the authority's principal office.

(3) Where a petition is invalid only because it does not comply with regulation 9(1)(a), the notification under paragraph (1) and the statement to be published by the authority under paragraph (2) shall also include a statement that the invalid petition may be amalgamated with any subsequent petitions which are submitted to the authority.

Restrictions relating to publicity

15.—(1) An authority shall not incur any expenditure for the purpose of—

- (a) publishing any material which, in whole or in part, appears designed to influence local government electors in deciding whether or not to sign a petition under this Part;
- (b) assisting any person to publish any such material; or
- (c) influencing or assisting any person to influence, by any other means, local government electors in deciding whether or not to sign a petition under this Part.

(2) Nothing in paragraph (1) shall be taken to prevent an authority from incurring expenditure on publishing or otherwise providing to any person (whether or not in pursuance of any duty to do so) any factual information 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 Secretary of State under section 38.

Timing of referendum

16.—(1) Subject to paragraphs (2) and (3) and regulation 21, a referendum in consequence of a valid petition shall be held not later than—

- (a) the end of the period of six months beginning with the petition date; or
- (b) the end of the period of two months beginning with the date on which regulations under section 45 (with respect to the referendum) come into force,

whichever is the later.

(2) A referendum shall not be held before the end of the period of two months beginning with the date on which proposals are sent to the Secretary of State in accordance with regulation 17(9).

(3) Paragraph (1) shall not apply where the Secretary of State holds a referendum in exercise of the power conferred by regulation 25.

Action before referendum

17.—(1) Before the holding of a referendum under this Part, the authority shall—

- (a) where the petition does not specify, or is treated as not specifying, the form proposed for the authority's executive—

- (i) subject to paragraph (2), decide which form the executive is to take; and
 - (ii) decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive; or
- (b) where the petition specifies the form proposed for the authority's executive, decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.
- (2) The form of executive determined under paragraph (1)(a)(i) must include an elected mayor.
- (3) Before the holding of a referendum under this Part, the authority shall also—
 - (a) draw up proposals for the operation of executive arrangements; and
 - (b) draw up outline fall-back proposals.
- (4) Before drawing up proposals under paragraph (3)(a) and (b) the authority shall take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (5) The authority's proposals under paragraph (3)(a) shall include—
 - (a) such details of the executive arrangements as the Secretary of State 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.
- (6) In drawing up proposals under paragraph (3)(a) the authority shall consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (7) The authority's proposals under paragraph (3)(b)—
 - (a) where the authority are not then operating executive arrangements or alternative arrangements—
 - (i) shall include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State may direct;
 - (ii) shall include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals that are to be the subject of the referendum are rejected; and
 - (iii) 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 Secretary of State;
 - (b) where the authority are then operating executive arrangements or alternative arrangements shall consist of a summary of those arrangements.
- (8) In drawing up proposals under paragraph (3)(a) and (b) the authority shall have regard to any guidance for the time being issued by the Secretary of State under section 38.
- (9) Not later than two months before the date on which the referendum is to be held, the authority shall send to the Secretary of State—
 - (a) a copy of the proposals drawn up under paragraph (3)(a) and (b); 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.

(10) The authority shall comply with any directions given by the Secretary of State for the purposes of this regulation.

PART III

DIRECTIONS AND REFERENDUMS

Circumstances in which Secretary of State may require referendum

18.—(1) The Secretary of State may—

- (a) where it appears to him that the circumstances are as mentioned in any paragraph of Schedule 2 to these Regulations;
- (b) where he has rejected an authority's application under section 28 (approval of outline fall-back proposals);
- (c) where it appears to him that a direction is necessary to further compliance with the requirements of Part I of the Local Government Act 1999(6) (best value);
- (d) if an authority request him to do so; or
- (e) if a petition organiser requests him to do so,

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

(2) Where the Secretary of State gives a direction pursuant to paragraph (1)(a), he 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 Secretary of State) 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) are in possession of the first petition submitted to them under Part II of these Regulations (including the single petition resulting from an amalgamation of petitions in accordance with regulation 8(1)), and
- (b) have not complied with regulation 11(2) in relation to it,

they shall satisfy themselves as to its validity 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 are satisfied that the petition is valid, they 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 are satisfied that the petition is invalid, they 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 receive a petition submitted to them 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 they have 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 Secretary of State and the petition organiser (if any) 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 their proposals, if implemented, are likely to assist in securing continuous improvement in the way in which their 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 Secretary of State 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 are not then operating executive arrangements or alternative arrangements—
 - (i) may not be drawn up before the authority have taken reasonable steps to consult the local government electors for, and other interested persons in, their area;
 - (ii) shall include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State 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 Secretary of State;
- (b) where the authority are 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 Secretary of State; and
 - (b) shall have regard to any guidance for the time being issued by the Secretary of State 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 Secretary of State—
 - (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 are sent to the Secretary of State in accordance with regulation 20(5).

(3) Paragraph (1) shall not apply where the Secretary of State holds a referendum in exercise of the power conferred by regulation 25.

(4) Where the Secretary of State—

- (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 Secretary of State's 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 their 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 Secretary of State 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 Secretary of State under section 38.

PART IV

ACTION TO BE TAKEN AFTER REFERENDUMS

Action where referendum proposals approved

23. If the result of a referendum held under Part II or in pursuance of a direction under Part III is to approve the proposals that were the subject of the referendum, the authority shall implement those proposals in accordance with the timetable included in the proposals under regulation 17(3) (a) or regulation 19(1)(c), as the case may be.

Action where referendum proposals rejected

24.—(1) If the result of a referendum held under Part II or in pursuance of a direction under Part III is to reject the proposals that were the subject of the referendum—

- (a) the authority may not implement those proposals; and
- (b) if they are not then operating alternative arrangements (within the meaning given by section 32(1)) or executive arrangements, shall draw up detailed fall-back proposals which are based on their outline fall-back proposals; or
- (c) if they are then operating executive arrangements or alternative arrangements, shall continue to operate those arrangements (as summarised in accordance with regulation 17(7)(b) or 20(3)(b), as the case may be).

(2) Detailed fall-back proposals shall comprise—

- (a) the details (if any) specified in a direction under regulation 18(1);
- (b) such other details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State may direct; and
- (c) details of any transitional arrangements which are necessary for the implementation of the proposals.

(3) In drawing up detailed fall-back proposals the authority—

- (a) shall comply with any directions given by the Secretary of State; and
- (b) where those proposals involve executive arrangements shall, unless a direction has been given in relation to that matter, decide the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.

(4) Except to the extent that detailed fall-back proposals involving executive arrangements or alternative arrangements are specified in a direction under regulation 18(1)—

- (a) before drawing up proposals in accordance with paragraph (1)(b) above, the authority shall take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area; and

(b) in drawing up those proposals, the authority shall consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(5) Where detailed fall-back proposals are drawn up in accordance with paragraph (1)(b), the authority shall send a copy of them to the Secretary of State.

(6) Subject to paragraph (7), the authority shall implement detailed fall-back proposals in accordance with the timetable included pursuant to regulation 17(7)(a)(ii) or, as the case may be, regulation 20(3)(a)(iii).

(7) Where detailed fall-back proposals are based on proposals approved under subsection (1) of section 28 (approval of outline fall-back proposals), the timetable referred to in paragraph (6) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

PART V

DEFAULT POWERS OF THE SECRETARY OF STATE

Default powers of the Secretary of State

25. The Secretary of State may, in the event of any failure by an authority to take any action which may or must be taken by the authority under any of Parts II to IV, himself take that action.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,

Department of the Environment, Transport and
the Regions

19th October 2000

SCHEDULE 1

Regulation 10(2)

PETITION STATEMENT

The terms of the statement referred to in regulation 10(2) are—

“We, the undersigned, being local government electors for the area of [*insert name of local authority*], to whom this petition is addressed, seek a referendum on whether the electors for that area should elect a mayor who *(, with a **[cabinet] **[council manager]) will be in charge of our local services and lead [*insert name of local authority*].”.

*Note: The phrase marked * to be omitted or retained as the petitioners require.*

*If the phrase marked * is retained, the petitions should select one of the alternatives marked **.*

SCHEDULE 2

Regulation 18(1)(a)

PARTICULAR CIRCUMSTANCES IN WHICH SECRETARY OF STATE MAY REQUIRE REFERENDUM TO BE HELD

PART I

CIRCUMSTANCES RELATING TO PROPOSALS

1. The authority have not drawn up proposals under section 25, section 31, regulation 17(3)(a) or, as the case may be, regulation 19(1)(c), and are unlikely to do so unless the Secretary of State so directs.
2. The authority have drawn up proposals under section 25 or, as the case may be, section 31, regulation 17(3)(a) or regulation 19(1)(c)—
 - (a) without having taken reasonable steps to undertake the consultation required by section 25(2) or, as the case may be, section 31(5), regulation 17(4), regulation 20(1)(c) or (e)(iii) or regulations under section 31(7); or
 - (b) without having had due regard to the response to that consultation; or
 - (c) without having undertaken that consultation in a manner which is fair and consistent with guidance as to the matter of such consultation.
3. The authority’s proposals—
 - (a) do not comply with the requirements of subsections (3) and (6) of section 25 or, as the case may be, regulation 17(1)(a) or (b) and (5) or regulation 20(1)(a) and (b), (e)(i) and (ii) and (2);
 - (b) do not comply with the requirements specified in regulations under section 31(7) of the Act; or
 - (c) are unsatisfactory in any other respect.
4. The interval between any consecutive actions proposed in the timetable with respect to the implementation of the authority’s proposals included in proposals drawn up under section 25, or, as the case may be, regulation 17(3)(a), regulation 19(1)(c) or regulations under section 31(7)—
 - (a) is unreasonably long; or
 - (b) contravenes any requirement imposed by or under Part II of the Act.

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5. The authority have failed to implement their proposals in accordance with the timetable included in those proposals.

6. The authority have failed to comply with any directions given by the Secretary of State for the purposes of Part II of the Act.

PART II

CIRCUMSTANCES RELATING TO FALL-BACK PROPOSALS

7. The authority have not drawn up outline fall-back proposals under section 27(1)(b) or, as the case may be, regulation 17(3)(b) or regulation 19(1)(d), and are unlikely to do so unless the Secretary of State so directs.

8. The authority have drawn up outline fall-back proposals—

- (a) without having taken reasonable steps to undertake the consultation required by section 27(3) or, as the case may be, regulation 17(4) or regulation 20(3)(a)(i);
- (b) without having undertaken that consultation in a manner which is fair and consistent with guidance as to the manner of such consultation; or
- (c) without having had due regard to the response to that consultation;

9. The interval between any consecutive actions proposed in the timetable with respect to the implementation of the authority's outline fall-back proposals in the event that the referendum rejects the proposals drawn up under section 25 or, as the case may be, regulation 17(3)(a) or regulation 19(1)(c), is unreasonably long.

10. The authority's outline fall-back proposals—

- (a) do not comply with the requirements of subsections (4) and (10) of section 27 or, as the case may be, regulation 17(7)(a)(i) or regulation 20(3)(a)(ii); or
- (b) are unsatisfactory in any other respect.

11. The authority have failed to comply with any directions given by the Secretary of State for the purposes of Part II of the Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Part II of the Local Government Act 2000 (“the Act”), local authorities are able to make arrangements for the discharge of their functions by executives, which must take one of the forms specified in section 11(2) to (4) of the Act or in regulations under section 11(5). Where an authority's proposals for an executive involve an elected mayor, they are required by section 27 of the Act to hold a referendum before taking steps to implement the proposals.

These Regulations make provision in connection with the holding of a referendum where at least 5% of the local government electors in an authority's area petition the authority for the holding of a referendum on the question whether the authority should operate executive arrangements which involve an elected mayor. They also enable the Secretary of State, in specified circumstances, to

require an authority to hold a referendum on proposals involving any form of executive specified in section 11(2) to (4) or prescribed in regulations under section 11(5).

Part I of the Regulations (regulations 1 and 2) contains provisions about their citation, commencement, extent and general interpretation.

Part II deals with petitions for referendums. Regulation 3 defines terms used in Part II. Regulations 4 and 5 are relevant to the number that is to be used for the purposes of determining whether a petition has the support of at least 5% of the authority's electorate (the "verification number"). Generally, the verification number is ascertained annually by reference to the number of electors whose names appear on the electoral register or registers that have effect for the period that includes the date of submission of the petition. There are special provisions in relation to petitions submitted between the date of publication of a verification number and 1st April in the year of publication. Regulation 4 requires an officer appointed for the purpose by the authority to publish the verification number, and enables him to obtain relevant information from electoral registration officers. The first verification number must be published not later than four weeks after the coming into force of these Regulations and, in subsequent years, within 14 days of publication of the electoral register. Regulation 5 requires the authority to give public notice of the verification number and of the period in relation to which, subject to the special provisions, it is to be used for determining the validity of petitions.

Subject to the exceptions for which regulations 7 and 19 provide, regulation 6(1) requires an authority to hold a referendum in accordance with Part II of the Regulations if the officer appointed by them for the purpose of verifying petitions is satisfied that a petition received by them is valid. (The authority are not required to hold such a referendum where that officer is not satisfied as to the validity of a petition). Regulation 6(2) makes provision about the delivery of petitions.

Regulation 7 makes special provision where a petition ("post-announcement petition") is received after an authority have given notice of their intention to hold a referendum on proposals that include an elected mayor. In these circumstances, the Secretary of State and the organiser of the petition (if any) are to be notified of the receipt of the petition, of the proposed referendum, and of the fact that no further action is intended to be taken in relation to the post-announcement petition. The petition organiser (if any) must also be notified of the date by which he may request the Secretary of State's intervention under regulation 18. Further special provision is made where a petition is received after a direction has been given under regulation 18.

Regulation 8 provides for the amalgamation of petitions. Petitions may be amalgamated both by petition organisers before presentation of the petitions to the authority, and by the authority's proper officer after the authority have received the petitions. Petitions may not be amalgamated once the verification number has been reached. Petitions that do not propose the same constitutional change (defined in regulation 8(8)), may not be amalgamated without the agreement of the petition organiser for each of the constituent petitions. Where a petition that specifies a form of executive is amalgamated with a petition in which the form of executive is not specified, the amalgamated petition is to be treated for other purposes of the Regulations as proposing an unspecified form of executive.

Regulations 9 and 10 deal with the validity and content of petitions. A petition must be signed by at least the same number of local government electors for the authority's area as the verification number. A petition is to be treated as valid, notwithstanding a failure to comply with the requirements of regulation 10, so long as the constitutional change in relation to which the referendum is sought can be ascertained. The nature of the constitutional change should be specified in the terms set out in Schedule 1 to the Regulations or in similar terms. Regulation 10 also provides for the identification of the "petition organiser". Where petitions are amalgamated before submission to the authority, the petition organiser in relation to the amalgamated petition is to be determined by the organisers of the constituent petitions.

Regulation 11 provides for the petition organiser to be notified of the "petition date" (defined in regulation 3) and for petitions to be amalgamated where required by regulation 8(3). The petition

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organiser and the Secretary of State have to be notified where a second (or subsequent) petition cannot be amalgamated with an earlier petition for a reason other than the invalidity of the earlier petition. The petition organiser of a petition which the authority's officer has declined to amalgamate may request the Secretary of State's intervention under regulation 18.

Regulation 12 requires the authority to make petitions available for public inspection.

Regulation 13 specifies the steps that must be taken when the authority's officer has determined that a petition is valid.

Regulation 14 specifies the steps that must be taken when the authority's officer has determined that a petition is not valid.

Regulation 15 imposes restrictions on the steps that may be taken, and the expenditure that may be incurred, by a local authority in connection with petitions.

Subject to certain exceptions, regulation 16 requires the holding of a referendum, following a valid petition, within six months of the petition date or within two months of the coming into force of regulations under section 45 of the Act (relating to the conduct of referendums), whichever is the later.

Regulation 17 requires the authority to draw up and consult on proposals for executive arrangements which include an elected mayor before a referendum is held. They must also draw up and consult on an outline of the fall-back proposals that the authority intend to implement if the proposals in the referendum are rejected. In drawing up proposals, an authority are required to have regard to any guidance that may have been issued under section 38 of the Act.

Regulation 18, in Part III, to which Schedule 2 is relevant, prescribes the circumstances in which the Secretary of State may direct a local authority to hold a referendum and specifies the matters that may be included in the Secretary of State's direction.

Regulation 19 specifies the steps to be taken by an authority on receipt of the Secretary of State's direction. Paragraph (2) of that regulation suspends the effect of the direction where an authority have received their first petition under Part II of the Regulations but have not satisfied themselves as to its validity. If the petition is valid, the authority are required by paragraph (3) to hold a referendum on the form of executive proposed by the petition, and the direction is of no effect. If the petition is invalid, the direction takes effect and the authority are required to hold a referendum in accordance with the terms of the direction. Special provision is made where a petition is received after a direction has been given under regulation 18.

Regulation 20 contains provisions about the contents of the proposals that are to be drawn up by the authority and about consultation. The requirements are similar to those required in relation to proposals under section 25 of the Act.

Subject to certain exceptions, regulation 21 requires a referendum required by a direction under regulation 18 to be held within 6 months of the Secretary of State's direction.

Regulation 22 specifies arrangements for publicising referendums held at the Secretary of State's direction and contains restrictions on the publication by the authority of other information about the direction and its consequences.

Part IV deals with actions to be taken after the holding of a referendum under Part II or in consequence of a direction under Part III. Where the result of a referendum is to approve the referendum proposals, regulation 23 requires the authority to implement those proposals in accordance with the timetable included in the proposals under regulation 17(3)(a) or regulation 19(1)(c), as the case may be. Where the result of a referendum is to reject the referendum proposals, regulation 24 requires the authority to draw up detailed fall-back proposals, unless they are already operating alternative arrangements or executive arrangements. Detailed fall back proposals are to be sent to the Secretary of State unless they reproduce those contained in any direction that he may have given under regulation 18(1). They are to be implemented in accordance with the timetable previously submitted or, where they are based on outline fall-back proposals approved by the

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Secretary of State under section 28, to a timetable that reflects the need to make regulations under section 11(5) or 32 (as the case may be). If the authority are operating executive arrangements or alternative arrangements, regulation 24 requires those arrangements to continue.

Regulation 25 in Part V enables the Secretary of State to take any action that an authority are permitted or required to take under any of Parts II to IV if the authority fail to take that action.