
WELSH STATUTORY INSTRUMENTS

2008 No. 1848

**The Local Authorities (Conduct of
Referendums) (Wales) Regulations 2008**

Determination of referendum petitions and subsequent procedures

13.—(1) Where an election court certifies, as its determination of a referendum petition, that the result of the referendum declared under regulation 10 is or is not in accordance with the votes cast (as the case may be), any reference (in whatever terms) in the timetable—

- (a) included in the local authority's proposals under section 25;
- (b) included in their proposals under regulation 17(3)(a) or 19(1)(c) of the Petitions and Directions Regulations;
- (c) prepared in pursuance of section 27(4) or regulation 17(7)(a)(ii) or 20(3)(a)(iii) of those Regulations; or
- (d) prepared in pursuance of 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 is to 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 11(1), that the referendum was avoided, the local authority concerned must, not earlier than two months and not later than three months after the date on which the election court has certified that determination, hold another referendum.

- (3) Where the circumstances are as mentioned in regulation 12(8)(a) and (b), the court must—
- (a) dismiss the petition, or
 - (b) allow the petition,

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

(4) Where the election court makes the order mentioned in paragraph (3), the local authority must hold the further referendum as soon as 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—
- (a) where the local authority are operating executive arrangements, they must 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, and
 - (b) where the local authority are operating alternative arrangements, they must continue to operate those arrangements unless and until they are authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of their existing alternative arrangements.

- (6) If the majority of votes cast in the further referendum are “no” votes, the local authority—

- (a) must implement the proposals that were their outline fall-back proposals at the time of the tainted referendum, and
 - (b) subject to paragraphs (7) and (8), section 27(13) (referendum in case of proposals involving elected mayor) applies to the implementation of detailed fall-back proposals as if those outline fall-back proposals were outline fall-back proposals in the event that proposals under section 25 (proposals) are rejected in a referendum under section 27.
- (7) Where the authority's outline fall-back proposals are the executive or alternative arrangements which they were operating at the date of the tainted referendum, section 27(13) applies (as mentioned in paragraph (6)) as if, for “in accordance with the timetable mentioned in subsection (4)”, there were substituted “as soon as practicable”.
- (8) Where the authority's outline fall-back proposals are executive arrangements which involve a form of executive for which a referendum is not required—
- (a) section 29(1) (operation of, and publicity for, executive arrangements) applies for the purpose of enabling the authority to operate the executive arrangements set out in their detailed fall-back proposals as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances, and
 - (b) section 29(2) applies 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 authority's existing executive arrangements, the 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) section 33(2) (operation of alternative arrangements) applies 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) section 29(2) applies 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, 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) the omission of paragraph (1)(a),
 - (ii) in paragraph (1)(b), the substitution for “the proposals” of “the local authority's existing executive or alternative arrangements”,
 - (iii) in paragraph (1)(c)(vi), the substitution for “a copy of the proposals” of “a document in which are set out the main features of the authority's existing executive or alternative arrangements”,
 - (iv) in paragraph (1)(c)(vii), the substitution for “the proposals and” of “that document and those”,
 - (v) after paragraph (1)(c)(vii), the insertion of—
 - “(viii) if it be the case, that the referendum is being held in consequence of the determination of an election court that the referendum last held in the authority's area was void or, as the case may be, declared to be 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 authority's current executive or alternative arrangements ”,
 - (vii) in paragraph (5), the substitution, for “the proposals”, of “ the main features of the local authority's current executive or alternative arrangements ”, and
- (b) the substitution of paragraph 1 of Schedule 1 and the first form to appear in the Appendix to the Local Government Act Referendums Rules, 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*

.....
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?"; and

- (c) the substitution of paragraph 2 of Schedule 1 and the second form to appear in the Appendix to the Local Government Act Rules 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 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 12 other than paragraph (8), the election court must either—

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

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

Changes to legislation:

There are currently no known outstanding effects for the The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, Section 13.