

2001 No. 760

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Referendums) (Petitions and Directions) (England) (Amendment) Regulations 2001

Made - - - - 7th March 2001

Laid before Parliament 9th March 2001

Coming into force immediately before 1st April 2001

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^(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Referendums) (Petitions and Directions) (England) (Amendment) Regulations 2001 and shall come into force immediately before 1st April 2001.

(2) These Regulations extend to England only.

Amendment of Regulations

2. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000^(b) are amended in accordance with the following provisions of these Regulations.

Interpretation of Part II

3. In regulation 3 (interpretation of Part II), for the definition of “constitutional change”, there shall be substituted the following definition—

““constitutional change”—

(a) unless a local authority are operating executive arrangements which involve an elected mayor, means a proposal that the authority should operate executive arrangements—

(i) under which the executive takes the form specified in subsection (2) or (4) of section 11 (local authority executives), or otherwise involves an elected mayor; or,

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

^(a) 2000 c. 22.
^(b) S.I. 2000/2852.

- (b) where a local authority are operating executive arrangements which involve an elected mayor (“existing executive arrangements”), means a proposal that the authority should operate executive arrangements under which the executive takes a form which—
- (i) is specified in the proposal;
 - (ii) involves an elected mayor; and
 - (iii) differs from the form of executive under the existing executive arrangements;”.

Verification number and transitional and consequential provision

4.—(1) In regulation 4 (verification number)—

- (a) in paragraph (6), for “after 2001”, there shall be substituted “after 2000”; and
- (b) in paragraph (7), after “any year”, there shall be inserted “except 2001”.

(2) On 1st January 2002—

- (a) for regulation 4, there shall be substituted the regulation set out in the Schedule to these Regulations;
- (b) paragraph (1) above shall cease to have effect; and
- (c) in regulation 5 (publicity for verification number)—

- (i) for “regulation 4(1) or (2)”, there shall be substituted “regulation 4(1)”;

- (ii) for paragraphs (c) and (d), there shall be substituted the following paragraphs—

- “(c) that the number so published will have effect 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 a different number has effect by virtue of paragraph (4) of regulation 4; and

- (d) the effect of paragraph (4) of regulation 4; and”.

(3) Subject to paragraph (4) below, the number published in 2001 (in accordance with regulation 4 as amended by paragraph (1) above) shall be used for verification purposes in relation to any petition presented to the authority before 1st April 2002.

(4) Where the number published in 2002 (in accordance with paragraph (1) of the substituted regulation 4) is less than the number published in 2001, the number to be used for verification purposes, in relation to any petition presented to the authority in the period beginning on the date of publication of the lesser number and ending immediately before 1st April 2002, shall be that lesser number.

(5) Regulation 5 (publicity for verification number) shall have effect, in relation to the number published in 2001 (as mentioned in paragraph (3) above) as if, for paragraphs (c) to (e), there were substituted the following paragraphs—

- “(c) that the number so published will have effect for the purpose of determining the validity of petitions presented to the authority in the period beginning on 1st April 2001 and ending immediately before 1st April 2002, unless the number published in 2002 is less, in which case, that lesser number will have effect from the date of its publication until immediately before 1st April 2002; and

- (d) of the address of the authority’s principal office.”.

Publicity for verification number

5. In regulation 5 for “for the authority’s area for the period ending on 15th February in the following year”, there shall be substituted “on 15th February in that year”.

Petitions presented within a moratorium period

6. In regulation 9 (validity of petitions), in paragraph (1), there shall be inserted at the end of sub-paragraph (b) “ ; and

- (c) it is presented to the local authority to which is addressed on a day other than one that falls within a moratorium period”.

Action where referendum proposals approved

7.—(1) For regulation 23 (action where referendum proposals approved) there shall be substituted the following—

“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—

- (a) the authority shall implement the proposals that were the subject of the referendum in accordance with the timetable included in the proposals under regulation 17(3) (a) or, as the case may be, regulation 19(1)(c); and
- (b) where the authority are then operating executive arrangements that take a form that differs from those that were the subject of the referendum, section 29 (operation of, and publicity for, executive arrangements) shall apply for the purpose of enabling the authority to operate the executive arrangements that were the subject of the referendum as it applies for the purpose of enabling an authority to operate executive arrangements in other circumstances as if, for references to the arrangements, there were substituted references to the different executive arrangements that were the subject of the referendum.”.

Action where referendum proposals rejected

8. In regulation 24 (action where referendum proposals rejected), in paragraph (1), for sub-paragraph (c) there shall be substituted the following—

- “(c) if they are then 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; or
- (d) if they are then operating alternative arrangements, they shall 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.”.(a)

Additional circumstances in which Secretary of State may require referendum to be held

9. In Schedule 2 (particular circumstances in which Secretary of State may require referendum to be held), in Part I (circumstances relating to proposals)—

- (a) in paragraph 2—
 - (i) after “regulation 19(1)(c)” there shall be inserted “, or regulations under section 30 and 33”;
 - (ii) in sub-paragraph (a), after “under section” there shall be inserted “30, 33 or”;
- (b) in paragraph 3, in sub-paragraph (a), there shall be inserted, at the end, “or any comparable provision of regulations under sections 30 and 33”; and

(a) See sections 30 and 33 to 36 of the Local Government Act 2000.

(c) in paragraph 4, after “regulations under section”, there shall be inserted “30, 33 or”.

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

7th March 2001

Beverley Hughes
Parliamentary Under Secretary of State,
Department of the Environment, Transport
and the Regions

SCHEDULE

regulation 4(2)(a)

TEXT OF SUBSTITUTED REGULATION 4

“4.—(1) Subject to paragraph (2), in each year commencing with the year beginning on 1st January 2002, the proper officer of each local authority shall, within the period of 14 days beginning with 15th February, publish the number that is equal to 5 per cent. of the number of local government electors for the authority’s area shown in the revised version of the register or, as the case may be, the registers having effect for that area on that 15th February.

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

(3) The number published in each year in accordance with paragraph (1) shall be used for verification purposes in relation to any petition presented to the authority in the period of 12 months beginning with 1st April in that year.

(4) Where the number published in any year after 2002 in accordance with paragraph (1) is less than the number published in the preceding year, the number to be used for verification purposes, in relation to any petition presented 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.

(5) The proper officer may, in connection with the discharge of the duty imposed by paragraph (1), require an electoral registration officer to provide him with information relevant to the number that is to be published in accordance with that paragraph; 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.”(a)

(a) See section 13(5) of the Representation of the People Act (c. 2), substituted by the Representation of the People Act 2000 (c. 2), Schedule 1, paragraph 6, as to the period for which registers have effect.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (“the principal Regulations”), which relate to referendums as to the form of executive that should be adopted by local authorities under executive arrangements under the Local Government Act 2000 (“the 2000 Act”), where such referendums are required to be held following receipt of a valid petition, or by direction of the Secretary of State.

The amendment made by regulation 3 substitutes the definition of “constitutional change” that is to be used for the interpretation of Part II (petitions and referendums) of the principal Regulations. That term is relevant for the purposes of regulations 8 to 10, 13 and 14 of the principal Regulations.

The effect of the amendments made by regulation 4(1) is to provide that the number published in 2001, in accordance with regulation 4(2) of the principal Regulations, has effect for the period of 12 months beginning on 1st April 2001. Regulation 4(2)(a) secures that, on 1st January 2002, the provisions set out in the Schedule replace regulation 4. Those provisions have broadly the same effect, but are based on the “rolling” register of local government electors for which sections 13 to 13B of the Representation of the People Act 1983 (as substituted by paragraph 6 of Schedule 1 to the Representation of the People Act 2000) provide. Regulation 4(2)(c) makes consequential amendments to regulation 5 of the principal Regulations.

Paragraphs (3) to (5) of regulation 4 make transitional provision, the effect of which is that, unless the number published in 2002 in accordance with the substituted regulation 4 is lower than the number published in 2001 in accordance with the original regulation 4 (as amended by regulation 4(1) of these Regulations), the verification number in relation to petitions presented between 1st January 2002 and 1st April 2002 is the number published in 2001. If the number published in 2002 is lower, that lower number is the verification number in relation to petitions presented between the date of publication in 2002 and 1st April 2002.

Regulation 5 makes an amendment to regulation 5 of the principal Regulations consequential upon the “rolling” registers mentioned above.

The amendment made by regulation 6 secures that a petition presented to a local authority in a “moratorium period” (defined in regulation 3 of the principal Regulations) is not a valid petition.

The amendments to regulations 23 and 24, made by regulations 7 and 8 specify the consequences of approval and rejection of referendum proposals where the authority by which the referendum was held were already operating alternative arrangements (arrangements specified in regulations under section 32 of the 2000 Act) or executive arrangements that differ from those that were the subject of the referendum.

The amendments to Schedule 2 to the principal Regulations, made by regulation 9, specify additional circumstances in which the Secretary of State may direct a referendum to be held. The circumstances relate to regulations under section 30 (operation of different executive arrangements) and 33 (operation of alternative arrangements) of the 2000 Act.

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