

SCHEDULE 5

Regulation 11

Application, with further modifications, of the Representation of the People Act 1983 in relation to Referendum Petitions

(1) Provision	(2) Further modifications
Section 128 (presentation of petition questioning local election) M1	In subsection (1)— (a) for “under the local government Act” substitute “ under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”, and (b) omit “either” and the words from “, or by a person” to the end. In subsection (2), for the words from the beginning to “any” substitute “ Any ”.
Section 129 (time for presentation or amendment of petition questioning local election)	In subsection (1) for “under the local government Act” substitute “ under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”. In subsection (2)(b) for “a candidate elected at the election” substitute “ any person ”. In subsection (3)(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 ”. Omit subsections (4) and (5). For subsection (7) substitute— “(7) Subsections (3) and (6) apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.” Omit subsection (9).
Section 130 (election court for local election in England and Wales, and place of trial) M2	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 2008 ”. In subsection (3)(a) for “in England and Wales under the local government Act” substitute “ in Wales under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”.
Section 131 (accommodation of and attendance on court)	
Section 132 (remuneration and allowances)	
Section 133 (repayments under section 131 and 132)	
Section 136 (security for costs) M3	In subsection (2)(b) for “petition questioning an election under the local government Act” substitute “ referendum petition within

Changes to legislation: There are currently no known outstanding effects for the *The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008, SCHEDULE 5.* (See end of Document for details)

	<p>the meaning of regulation 11 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”.</p>
<p>Section 137 (petition at issue) M4</p>	
<p>Section 138 (list of petitions) M5</p>	<p>In subsection (1)(a) for “all election petitions” substitute “ all referendum petitions within the meaning of regulation 11 of the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”.</p> <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 referendums under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 ”, and</p> <p>(b) for “the election list”, in both places, substitute “ the list made out under subsection (1) ”.</p>
<p>Section 139 (trial of petition)</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 he 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 is to 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) is to have no effect, and</p> <p>(b) the court is to declare the result of the referendum.</p> <p>(6B) Where—</p>

- (a) the petition relates to a referendum at which no equality of votes was found at the count, and
- (b) the court—
 - (i) disallows any vote cast in the referendum, and
 - (ii) determines that an equality of votes was cast in the referendum, the result of the referendum is to be determined by the court by lot.”

Section 140 (witnesses)

M6

Section 141 (duty to answer relevant questions)

M7

Section 143 (expenses of witnesses)

Section 145 (conclusion of trial of local election petition)

M8

For subsection (1) substitute—

“(1) At the conclusion of the trial of a petition questioning a referendum under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 the election court is to determine—

- (a) in the case of a petition presented on the ground mentioned in regulation 11(1)(a) of those Regulations, whether the result of the referendum was or was not in accordance with the votes cast in the referendum,
- (b) in the case of a petition presented on the ground mentioned in regulation 11(1)(b) or (c) of those Regulations, whether the referendum was void.

(1A) Following a determination under subsection (1)(a), the election court must, as the circumstances require, confirm or reverse the result of the referendum.”

In subsection (3)—

- (a) for “sections 158 and” substitute “ section ”, and
- (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 ”.

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Section 146 (special case for determination of High Court)	Omit subsection (2). In subsection (3) for the words from the beginning to “local government Act” substitute— “(3) In the case of a referendum petition under the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008,”.
Section 147 (withdrawal of petition)	
Section 154 (costs of petition)	
Section 155(neglect or refusal to pay costs)	
Section 156(further provision as to costs) M9	
Section 157 (appeals and jurisdiction) M10	Omit subsection (4).
Section 160(1) and (3) (persons reported personally guilty of corrupt practices) M11	Omit subsection (1)(b).
Section 161 (Justices of the Peace) M12	
Section 162 (member of legal and certain other professions) M13	
Section 163 (holder of licence or certificate under Licensing Acts) M14	
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, is void ”. In subsection (2) for “An election” substitute “ A referendum ”.
Section 167 (application for relief) M15	
Section 180 (evidence by certificate of holding of election)	Omit sub-paragraph (ii) and the word immediately preceding it.
Section 183 (costs)	

M16

Section 184 (service of notices)

M17

Section 185 (interpretation of Part 3)

M18

Marginal Citations

- M1** 1983 c. 2; section 128 was amended by paragraph 12 of Schedule 1 to the [Electoral Administration Act 2006 \(c. 22\)](#).
- M2** Section 130 was amended by paragraph 50 of Schedule 10 to the [Courts and Legal Services Act 1990 \(c. 41\)](#) and paragraph 2 of Schedule 17 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).
- M3** Section 136 was amended by paragraph 48 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#) and paragraph 19 of Schedule 18 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).
- M4** Section 137 was substituted for section 137 as originally enacted by paragraph 3 of Schedule 17 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).
- M5** Section 138 was amended by paragraph 4 of Schedule 17 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).
- M6** Section 140 was amended by paragraph 49 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#).
- M7** Section 141 was amended by paragraph 50 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#) and paragraph 84 of Schedule 27 to the [Civil Partnership Act 2004 \(c. 33\)](#).
- M8** Section 145 was amended by paragraph 33 of Schedule 3 to the [Greater London Authority Act 1999 \(c. 29\)](#).
- M9** Section 156 was amended by paragraph 51 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#).
- M10** Section 157 was amended by paragraph 6 of Schedule 17 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) and paragraph 28 of Schedule 11 to the [Constitutional Reform Act 2005 \(c. 4\)](#).
- M11** Subsection (1) was amended by paragraph 52 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#), and subsection (3) was substituted for subsection (3) as originally enacted by that paragraph.
- M12** Section 161 was amended by paragraph 53 of Schedule 4, and Schedule 5, to the [Representation of the People Act 1985 \(c. 50\)](#) and paragraph 149 of Schedule 4 to the [Constitutional Reform Act 2005 \(c. 4\)](#).
- M13** Section 162 was amended by paragraph 54 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#).
- M14** Section 163 was amended by paragraph 55 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#).
- M15** Section 167 was amended by paragraph 56 of Schedule 4 to the [Representation of the People Act 1985 \(c. 50\)](#) and paragraph 18 of Schedule 18 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#).
- M16** Section 183 was amended by paragraph 28 of Schedule 11 to the [Constitutional Reform Act 2005 \(c. 4\)](#).
- M17** Section 184 was amended by paragraph 19 of Schedule 18 of the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) and [S.I. 2001/1149](#).
- M18** Section 185 was amended by paragraph 10 of Schedule 17 to the [Political Parties, Elections and Referendums Act 2000 \(c. 41\)](#) and paragraphs 86 and 87 of Schedule 6 to the [Licensing Act 2003 \(c. 17\)](#).

Changes to legislation:

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