**EXPLANATORY MEMORANDUM TO**

# THE LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2012

**2012 No. [XXXX]**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

The Local Authorities (Conduct of Referendums)(England) Regulations 2012 ("the Regulations") provide for the conduct of referendums to be held under Part 1A of the Local Government Act 2000 ("the 2000 Act"). These referendums relate to the question of whether a county council in England, district council or London borough council should change its existing governance arrangements to different (executive or non-executive) governance arrangements.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

## 4. Legislative Context

4.1 Part 1A (Arrangements with respect to local authority governance in England) and new Schedule A1 (Executive arrangements in England: further provision) of the 2000 Act (as inserted by section 21 of, and Schedule 2 to, the Localism Act 2011 ("the 2011 Act")), make provision for the governance of county councils in England, district councils and London borough councils. Under section 9B of the 2000 Act, a local authority must operate a mayor and cabinet executive, a leader and cabinet executive, a committee system, or arrangements as may be prescribed by Regulations under section 9BA of the 2000 Act.

4.2 A referendum on the question of whether a local authority should cease to operate its existing form of governance and start to operate one of the other permitted forms of governance may, or must, be held in certain circumstances (see Chapter 4 of Part 1A of the 2000 Act). For example, where a local authority's existing form of governance was approved in a referendum, the authority must hold a referendum in order to change that form of governance, otherwise a local authority can resolve to hold a referendum (section 9M of the 2000 Act). Alternatively, a referendum can be triggered by a petition signed by at least 5% of the local electorate, in accordance with the Local Authorities (Referendums)(Petitions)(England) Regulations 2011 (a draft of which is annexed to this memorandum for reference), or as a result of an order under section 9ME. Finally, the Secretary of State may require, by order, a specified local authority to hold a referendum on whether to start to operate a mayor and cabinet executive, under section 9N of the 2000 Act. See, for example, the City of

Birmingham (Mayoral Referendum) Order 2012 which is being laid alongside these Regulations.

4.3 The Regulations make provision for the conduct of referendums under Chapter 4 of Part 1A of the 2000 Act.

4.4 The Regulations revoke and replace the Local Authorities (Conduct of Referendums)(England) Regulations 2007 (SI 2007/2089) ("the 2007 Regulations"), and incorporate, as appropriate, changes resulting from the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") and the 2011 Act.

## 5. Territorial Extent and Application

This instrument applies to England.

## 6. European Convention on Human Rights

The Minister for Decentralisation and Cities, Greg Clark MP, has made the following statement regarding Human Rights:

In my view the provisions of the Local Authorities (Conduct of Referendums)(England) Regulations 2012 are compatible with the Convention rights.

## 7. Policy background

- ***What is being done and why***

7.1 The 2011 Act, which received Royal Assent on 15 November, implemented the Government's policy on allowing local authorities in England to adopt the committee system model of governance and providing for referendums in England's largest cities on whether the local authority should adopt the mayor and cabinet executive.

7.2 The Government believes that local authorities and the communities they represent are best placed to reach decisions on how their local authority should operate and be governed. The 2011 Act extends the options available to local authorities, by adding the committee system to the existing executive models set out in the 2000 Act. It will now be open to local authorities to operate one of the following governance models:

a) the mayor and cabinet executive;
b) the leader and cabinet executive (England);
c) the committee system; or
d) prescribed arrangements (i.e. prescribed in Regulations by the Secretary of State).

7.3 Part 1A of the 2000 Act provides for local people to have a say on the governance model adopted by their local authority via a referendum. The result of such a referendum is binding on the local authority concerned. Under the 2000 Act, governance referendums can be triggered by a petition signed by local people (under

7.4 The procedural rules for conducting a governance referendum under the 2000 Act are currently set out in the 2007 Regulations. As a result of the provisions on local authority governance in the 2011 Act, we have had to make a number of changes to those Regulations. We have also taken the opportunity to update the Regulations in light of changes made to the 2000 Act by the 2007 Act – including removing references to the now abolished mayor and council manager governance model.

7.5 The principal changes made in the Regulations are to apply the current procedural rules for conducting referendums to a referendum on the question of whether a local authority should adopt the committee system of governance and to a referendum on whether a local authority, specified in an order made under section 9N of the 2000 Act, should adopt the mayor and cabinet executive.

7.6 We have also taken the opportunity to update and improve the questions to be asked in a governance referendum, set out in Schedule 1, and the ballot papers in Schedules 3 and 5, drawing on the advice and expertise of the Electoral Commission. In line with the Government's localism agenda, we have also removed unnecessary prescription in relation to how local authorities publicise information about referendums, for instance, the date of the referendum and the question to be asked at the referendum etc. Under the 2007 Regulations, local authorities are currently required to publish such information in one or more local newspapers. However, under the Regulations, it will be for each local authority to decide the best method for ensuring that this information is brought to the attention of people living in its area.

7.7 Finally, provision has been made at regulation 10 to add the election of a police and crime commissioner, under section 50 (ordinary elections) or 51 (election to fill vacancy in office of commissioner) of the Police Reform and Social Responsibility Act 2011, to the list of elections with which a poll at a governance referendum may be required to be combined.

- ***Consolidation***

7.8 This is the first exercise of the enabling power.

## 8. Consultation outcome

8.1 The Government consulted the Electoral Commission, as required by section 9MG(6) of the 2000 Act, on the questions set out in Schedule 1 to be asked at governance referendums. The referendum questions were sent to the Electoral Commission on 9 August 2011, and the referendum questions and ballot papers were subject to a public consultation by the Commission. The results of the consultation were reported to the Department on 28 October 2011. A report setting out the views

expressed by the Commission on the questions has been placed in the library of each House of Parliament. In response the Government has adopted the referendum questions and the form of ballot papers as recommended by the Commission.

8.2 Given our approach of replicating, with minor amendments and updates, the 2007 Regulations, which were themselves subject to extensive consultation, discussions with partners and reflect various reports and recommendations made by the Commission, the Regulations have been the subject of a short, focussed sounding exercise with election experts and practitioners - the Electoral Commission, Returning Officers and the Association of Electoral Administrators. Minor points of clarification were raised which are reflected in the Regulations.

## 9. Guidance

The Regulations make no substantive procedural changes to the 2007 Regulations with which local authorities and electoral administrators are already familiar, so the Regulations are considered to be self-explanatory and there is no intention to issue separate guidance.

## 10. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## 11. Regulating small business

The legislation does not apply to small business.

## 12. Monitoring & review

The Department does not intend to put in place any formal mechanism for monitoring and reviewing the Regulations. The Department maintains close dialogue and liaison with the Electoral Commission and the Association of Electoral Administrators. Any issues relating to the Regulations will be identified through these channels.

## 13. Contact

Karl Holden at the Department for Communities and Local Government can answer any queries regarding the instrument (Tel: 0303 444 2572, karl.holden@communities.gsi.gov.uk).

STATUTORY INSTRUMENTS

# 2011 No.

# LOCAL GOVERNMENT, ENGLAND

## The Local Authorities (Referendums)(Petitions)(England) Regulations 2011

| | |
|---|---|
| *Made - - - -* | *** |
| *Laid before Parliament* | *** |
| *Coming into force - -* | *** |

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 9MC and 105(2) of the Local Government Act 2000(**a**), makes the following Regulations.

## PART 1

### General

**Citation, commencement and interpretation**

**1.** These Regulations may be cited as the Local Authorities (Referendums)(Petitions)(England) Regulations 2011 and shall come into force on [***].

**2.**—(1) In these Regulations—

"the 1972 Act" means the Local Government Act 1972(**b**);

"the 1983 Act" means the Representation of the People Act 1983(**c**)

"the 2000 Act" means the Local Government Act 2000.

(2) Except where expressly stated to the contrary, any reference in these Regulations to a section followed by a number is a reference to the section bearing that number in the 2000 Act.

(**a**) Section 9MC was inserted into the Local Government Act 2000 (c.22) by Schedule 2 to the Localism Act 2011 (c.20). Schedule 2 to the 2011 Act inserted a new Part 1A, applying to England only, into the 2000 Act. Section 105 was amended by section 100(3) of, and Schedule 3 to, the Local Government Act 2003 (c.26), and by section 191(5) of the Local Government and Public Involvement in Health Act 2007 (c.28), and by paragraph 70 of Schedule 3 to the Localism Act 2011.

(**b**) 1972 (c.70)

(**c**) 1983 (c.2). Amendments to section 8 were made by section 66 of, and Schedule 16 to, the Local Government (Wales) Act 1994 (c.19) and by section 11 of the Parliamentary Voting System and Constituencies Act 2011 (c.1). Section 9 was substituted by section 8 of, and Schedule 1 to, the Representation of the People Act 2000 (c.2). Amendments were made to section 9 by sections 9, 10 and 74 of, and Schedules 1 and 2 to, the Electoral Administration Act 2006 (c.22). Section 13 was substituted by sections 8 of, and Schedule 1 to, the Representation of the People Act 2000. Subsection (1) was substituted by section 5 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33). Subsection (1A) was inserted by section 23(2) of the Political Parties and Elections Act 2009 (c.12) and amendments were made to subsection (5) by section 39 of, and Schedule 6 to, that Act. Relevant amendments were made to section 37 by section 18(2) of the Representation of the People Act 1985 (c.50).

# PART 2

## Petitions and Referendums

### Interpretation of Part 2

**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"—

(a) in relation to an authority which are operating a leader and cabinet executive (England), means a proposal that the authority should start to operate a mayor and cabinet executive or the committee system instead;

(b) in relation to an authority which are operating a mayor and cabinet executive, means a proposal that the authority should start to operate a leader and cabinet executive (England) or the committee system instead;

(c) in relation to an authority which are operating the committee system, means a proposal that the authority should start to operate a mayor and cabinet executive or a leader and cabinet executive (England) instead;

"electoral register" must be construed in accordance with section 9 of the 1983 Act;

"electoral registration officer" has the meaning given by section 8 of the 1983 Act;

"moratorium period", in relation to a local authority's area and a petition, means the period of nine years commencing with the day on which a referendum ("referendum A") was last held under Part 1A of the 2000 Act(**a**) in relation to that area, except where—

(d) referendum A was held by virtue of an order under section 9N; and

(e) the proposal for the authority to operate a mayor and cabinet executive was rejected;

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

"ordinary day of election" has the meaning given by section 37 of the 1983 Act;

"petition", unless the context otherwise requires, includes an amalgamated petition;

"petition date"—

(f) 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;

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

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

(i) 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(**b**), means the date on which that period of six months ends;

"petition organiser"—

(j) 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;

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(**a**) Part 1A was substituted for Part 2 in relation to England.
(**b**) Section 9MF(1) prevents a local authority from holding a second or subsequent referendum within the period of ten years beginning with the date of the previous referendum.

(k) 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 1972 Act;

"publish" in relation to a local authority or a proper officer's duty to publish, means to make the specified information available to those persons who live in the area in whatever manner the local authority considers likely to bring it to the attention of those persons;

"revised version of the register" must be construed in accordance with section 13 of the 1983 Act;

"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 paragraphs (3) or (4) 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) Subject to paragraph (2), in each year 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 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 verification number published in any year 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 or her 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.

**Publicity for verification numbers**

**5.** As soon as reasonably practicable after the publication of a verification number in accordance with regulation 4(1), the authority shall publish a notice which contains 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 on 15th February in that year;

(b) of the number so published;

(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;

(d) the effect of paragraph (4) of regulation 4; and

(e) of the address of the authority's principal office.

**Petitions for a referendum**

**6.**—(1) Subject to regulation 7, 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 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, or section 9M (cases in which change subject to approval in a referendum)), 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 notifies the petition organiser (if any)—

(a) of the receipt of the petition;

(b) that the petition is a post-announcement petition; and

(c) that the authority propose to take no further action in relation to it.

**Amalgamation of petitions**

**8.**—(1) Where more than one petition relating to the same area and proposing the same constitutional change 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) Subject to paragraph (3), 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 (4); and those petitions shall then be treated for all other purposes of this Part as a single petition.

(3) The proper officer shall not amalgamate petitions—

(a) if he or she 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;

(b) if he or she is satisfied that the first and other constituent petitions amalgamated in accordance with paragraph (2) 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; or

(c) that do not propose the same constitutional change.

(4) 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) any other petitions shall be treated in the following order—

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

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

**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 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; and

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

(2) A petition shall not be invalid by reason only of a failure to satisfy the requirements of regulation 10(1) or 10(2) 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, that person's 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 the Schedule 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) that person's first name and surname and address; and

(b) the date on which he or she 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 ("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 that person 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 or her 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 (2) 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 or herself 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 (3) of regulation 8, the proper officer shall take the steps specified in paragraph (4).

(4) The steps specified in this paragraph are that, within the notice period, the proper officer shall notify the petition organiser (if any)—

(a) of the receipt of the petition and of its petition date;

(b) of the receipt of every earlier petition and of its petition date;

(c) of the reason why the later petition cannot be amalgamated with any earlier petition; and

(d) 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.

**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 or she shall, within the notice period, notify the petition organiser—

(a) of his or her conclusion; and

(b) that a referendum will be held.

(2) In a case to which paragraph (1) applies, the authority shall, as soon as reasonably practicable after the paragraph (1) requirement has been met, publish a notice which contains a statement—

(a) that a valid petition has been received;

(b) of the constitutional change 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 or she shall, within the notice period, notify the petition organiser (if any) of his or her conclusion and of the reasons for that conclusion.

(2) In a case to which paragraph (1) applies, the authority shall, as soon as reasonably practicable after the paragraph (1) requirement has been met, publish 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 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

**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 9Q.

**Timing of referendum in consequence of valid petition**

**16.**—(1) Subject to paragraphs (2) and (3), a referendum in consequence of a valid petition shall be held no later than the end of the next ordinary day of election after the petition date.

(2) Paragraph (1) shall not apply where—

(a) the petition date falls 4 months or less before the next ordinary day of election; or

(b) the next ordinary day of election falls within the period of six months beginning with the date that is six 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,

and, in such a case, a referendum in consequence of a valid petition shall be held no later than the end of the period of six months beginning with the petition date.

(3) Paragraph (1) shall not apply where the Secretary of State holds a referendum in exercise of the power conferred by regulation 20.

(4) A referendum under this Part may not be held on—

(a) a Saturday or Sunday;

(b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in England; or

(c) any day appointed as a day of public thanksgiving or mourning.

**Action before referendum**

**17.**—(1) Before the holding of a referendum under this Part, the authority shall decide the extent to which the functions specified in regulations under section 9D(3)(b) are to be the responsibility of the executive (if applicable) should the form of governance that is the constitutional change proposed in the petition be approved.

(2) Before the holding of a referendum under this Part, the authority shall draw up proposals for the operation of the form of governance that is the constitutional change proposed in the petition.

(3) In drawing up proposals under paragraph (2) the authority shall have regard to any guidance for the time being issued by the Secretary of State under section 9Q.

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(**a**) 1971 (c.80).

# PART 3

## Action to be taken after referendums

**Action where referendum proposals approved**

**18.** If the result of a referendum held under Part 2 of these Regulations is to approve the proposals that were the subject of the referendum the authority shall implement the proposals that were the subject of the referendum.

**Action where referendum proposals rejected**

**19.** If the result of a referendum held under Part 2 of these Regulations is to reject the proposals that were the subject of the referendum—

(a) the authority may not implement those proposals; and

(b) shall continue to operate their existing form of governance arrangements.

# PART 4

## Default powers of the Secretary of State

**Default powers of the Secretary of State**

**20.** 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 2 and 3 of these Regulations, take that action.

# PART 5

## Revocations

**21.** The following Regulations are revoked—

(a) the Local Authorities (Referendums)(Petitions and Directions)(England) Regulations 2000(**a**);

(b) the Local Authorities (Referendums)(Petitions and Directions)(England)(Amendment) Regulations 2001(**b**);

(c) the Local Authorities (Referendums)(Petitions and Directions)(England)(Amendment) (No. 2) Regulations 2001(**c**); and

(d) the Local Authorities (Referendums)(Petitions and Directions)(England)(Amendment) (No. 3) Regulations 2001(**d**).

Signed by authority of the Secretary of State for Communities and Local Government

*Name*
Minister of State
Date Department for Communities and Local Government

(**a**) S.I. 2000/2852.
(**b**) S.I. 2001/760.
(**c**) S.I. 2001/1310.
(**d**) S.I. 2001/3915.

# SCHEDULE

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 council should be run in a different way by *(a mayor who is elected by voters for the area which the council serves) **(a leader who is an elected councillor chosen by a vote of the other elected councillors) ***(one or more committees made up of elected councillors)."

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

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact provisions in the Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (SI 2000/2852) ("the 2000 Regulations").

The principal changes that are made to the 2000 Regulations are those necessitated by the Localism Act 2011 ("the 2011 Act") and the removal of provisions in relation to directions. Schedule 2 to the 2011 Act inserted a new Part 1A into the Local Government Act 2000 ("the 2000 Act"), which applies to England only. Under Part 1A a local authority must operate either a mayor and cabinet executive, a leader and cabinet executive, the committee system, or arrangements prescribed by the Secretary of State.

These Regulations make provision in connection with the holding of a referendum on whether a local authority should change to a different form of governance where at least 5% of the local government electors in the authority's area petition the authority.

Part 2 of the Regulations deals with petitions for referendums. Regulations 4 and 5 are relevant to the number that is to be used for determining whether a petition has the support of at least 5% of the authority's electorate ("the verification number"), and make provision for publication of that number.

Subject to the exceptions for which regulation 7 provides, regulation 6(1) requires an authority to hold a referendum if the officer appointed for the purpose of verifying petitions is satisfied that a petition is valid. The authority are not required to hold 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 is received after an authority have given notice of their intention to hold a referendum ("post-announcement petition").

Regulation 8 provides for the amalgamation of petitions 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, nor where they do not propose the same constitutional change.

Regulations 9 and 10 deal with the validity and content of petitions (and petition organisers). In particular a petition must be signed by at least 5% of local government electors for the authority's area.

There are provisions setting out the procedure to be followed by a local authority on receipt of petitions, public inspection of petitions, and publicity for valid and invalid petitions (regulations 11 to 14).

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, no later than the next ordinary day of election which follows the petition date.

Regulation 17 sets out steps which must be taken by an authority before holding a referendum and requires the authority to draw up proposals in relation to the proposed form of governance.

Part 3 deals with actions to be taken after the holding of a referendum under Part 2. Where the result of a referendum is to approve the referendum proposals, regulation 18 requires the authority to implement those proposals. Where the result of the referendum is to reject the proposals, regulation 19 requires them to continue to operate their existing form of governance.

Regulation 20 in Part 4 enables the Secretary of State to take any action that an authority are permitted or required to take under any of Parts 2 or 3 if the authority fail to take that action.

A full impact assessment has not been produced for these Regulations as no impact on the private or voluntary sectors is foreseen.