

LOCAL GOVERNMENT AND PUBLIC SERVICES COMMITTEE

Subordinate legislation – to explain the content and purpose of the draft Local Authorities (Conduct of Referendums) (Wales) Regulations 2004

Purpose

1. To inform the Committee of the content and purpose of the attached draft

regulations and make available the Regulatory Appraisal. The Committee identified these regulations for consideration when they met on 22 October 2003.

Summary

2. These draft regulations make provision for the holding of referendums by local authorities in Wales in connection with Part II of the Local Government Act 2000. Broadly, any referendum to be held will relate to one of the following questions, namely whether a county or county borough council in Wales should adopt (i) executive arrangements that include a mayor and cabinet executive, (ii) a mayor and council manager executive or (iii) a leader and cabinet executive. The regulations include provision:-

- a. as to the question to be asked in a referendum;
- b. as to the publicity to be given in connection with a referendum;
- c. about the limitation of expenditure in connection with a referendum (and the creation of a criminal offence in respect of the limit being exceeded);
- d. as to when, where and how voting in a referendum is to take place;
- e. as to how the votes cast in a referendum are to be counted;
- f. for the combination of a referendum with other polls;
- g. dealing with the result of a referendum; and
- h. how the result of a referendum can be challenged, the grounds for challenge and further referendums.

1. In accordance with statutory requirements the draft regulations have

issued for consultation to the Electoral Commission. The other consultees are County and County Borough Councils, the Welsh Local Government Association, Assembly Members including the Members of this Committee and its Clerk, and the main political parties in Wales. As the consultation only ended on 9 January I shall update the Committee orally on the responses received.

Background

2. Part II of the Local Government Act 2000 enabled local authorities to introduce new political structures known as executive and alternative arrangements. The executive arrangements allow for models which involve

directly elected mayors. Mayoral elections may not take place without a referendum having been held which produces a majority in favour of such a model. The Assembly has already made regulations under Part II of the Local Government Act 2000 providing for local government electors to petition for a referendum to be held by their county/county borough council. Sections 45 and 106 of the Local Government Act 2000 enable the Assembly to introduce regulations providing for referendums.

3. A referendum may be triggered by an authority receiving a valid petition

signed by at least ten percent of the electorate. Ceredigion County Council received such a valid petition on 4 November 2003, in favour of a referendum being held proposing that the Council be run by way of an elected mayor and cabinet. The Council is under a legal requirement to hold the referendum within six months of the date of receipt of the valid petition or within two months of regulations on the conduct of referendums being made by the National Assembly for Wales, whichever is the later. As the regulations are in the course of preparation, and are timetabled to come into force on 31 March 2004, it is unlikely that the referendum will be held before April 2004.

4. If the referendum vote is in favour of an election for a elected mayor, further regulations would be required which would provide for such an election. If the vote is against such an election, then the Council will continue in its present format; that is the Leader and Cabinet system.
5. The draft regulations issued to consultees in December 2003. The covering letter requested that the document be regarded as a first draft that is based largely on "*The Local Authorities (Conduct of Referendums) (England) Regulations 2001*". But it also contains certain provisions that are relevant to Wales; for example certain forms in the Schedules are to be prescribed in bilingual format. It is possible that the draft regulations will be subject to some amendment to take account of comments from the consultation exercise.

Consideration

6. If the regulations are not made it will not be possible for Ceredigion County

Council, or any other Council who subsequently receives a valid petition, to make arrangements for the holding of a referendum. This could lead to problems of democratic accountability both for the authority concerned and the Assembly.

7. Approval of the regulations will enable Ceredigion County Council to hold the referendum within two months of the regulations coming into force.

Financial Implications

10 There are no financial implications for the National Assembly for Wales arising out of the introduction of these regulations. The cost of holding the referendum will be met by the local authority concerned and is estimated by them to be in the region of £80k.

Regulatory Appraisal

11. A regulatory appraisal is attached.

Action for Subject Committee

12. The Committee is invited to note the contents of this paper and the related draft regulations and Regulatory Appraisal.

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