

2010 No. 2985

CONSTITUTIONAL LAW

DEVOLUTION, WALES

REFERENDUMS

REPRESENTATION OF THE PEOPLE

The National Assembly for Wales Referendum (Assembly Act Provisions) (Limit on Referendum Expenses Etc.) Order 2010

Made - - - - *15th December 2010*

Coming into force in accordance with article 1(2)

This Order is made in exercise of the powers conferred by sections 109(6) and 156(5), paragraph 4(1) of Part 2 of Schedule 13 and paragraph 2(2) and (3) of Schedule 14 to the Political Parties, Elections and Referendums Act 2000(a).

In accordance with paragraph 4(2)(b) of Schedule 13 to that Act, the Secretary of State for Wales has consulted the Electoral Commission in relation to the amendment of Part 1 of Schedule 13 to that Act.

In accordance with paragraph 2(4) of Schedule 14 to that Act, the Secretary of State for Wales has sought and had regard to the views of the Electoral Commission in relation to the limit on referendum expenses provided for in this Order.

In accordance with section 156(4) of that Act, a draft of this instrument was laid before, and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State for Wales makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the National Assembly for Wales Referendum (Assembly Act Provisions) (Limit on Referendum Expenses Etc.) Order 2010.

(2) This Order comes into force on the day after the day on which it is made.

(3) This Order applies in relation to the Welsh referendum.

Interpretation

2. In this Order —

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000;

“the Assembly” means the National Assembly for Wales as constituted by section 1 of the Government of Wales Act 2006;

“constituency vote” and “electoral region vote” have the same meaning as section 6 of the Government of Wales Act 2006;

“a designated organisation” is a permitted participant(a) designated in accordance with section 108(1) of the 2000 Act;

“the Welsh referendum” means the referendum held under section 103 of the Government of Wales Act 2006 in accordance with the National Assembly for Wales Referendum (Assembly Act Provisions) (Referendum Question, Date of Referendum Etc.) Order 2010(b).

Variation of registration periods for permitted participants

3. Section 109(2)(b) and (3) of the 2000 Act has effect in relation to the Welsh referendum as if for the period of “28 days” there were substituted in each place “35 days”.

Limit on referendum expenses by permitted participants

4.—(1) The limit on referendum expenses incurred during the referendum period by or on behalf of a permitted participant described in column 1 of the Table below is the amount specified in the corresponding entry in column 2 of that Table.

(1) <i>Permitted participant</i>	(2) <i>Limit (£)</i>
A designated organisation	600,000
A registered political party, not being a designated organisation, whose relevant percentage exceeds 30%	600,000
A registered political party, not being a designated organisation, whose relevant percentage is more than 20% but not more than 30%	480,000
A registered political party, not being a designated organisation, whose relevant percentage is more than 10% but not more than 20%	360,000
A registered political party, not being a designated organisation, whose relevant percentage is more than 5% but not more than 10%	240,000
Any other permitted participant	100,000

(2) For the purposes of this paragraph—

- (a) a registered political party has a relevant percentage in relation to the Welsh referendum if, at the Assembly general election held in 2007 (the 2007 election), constituency votes were cast for one or more candidates at the election authorised to use the party’s registered name and electoral region votes were cast for the registered political party; and
- (b) the amount of the relevant percentage is equal to the sum of—

(a) The meaning of permitted participant is set out in section 105 of the 2000 Act.

(b) S.I. 2010/2837.

- (i) the total constituency vote cast for the candidate or candidates mentioned in (a) in the 2007 election as a percentage of the total number of constituency votes cast in that election, multiplied by two thirds, and
- (ii) the total electoral region votes cast for a registered political party in the 2007 election as a percentage of the total number of electoral region votes cast in that election for any registered political party, multiplied by one third.

Referendum expenses: exclusions

5. Schedule 13 to the 2000 Act has effect in relation to the Welsh referendum as if after paragraph 2 there were inserted—

Expenses incurred in respect of the publication of any matter relating to the Welsh referendum other than an advertisement in —

- (a) a newspaper or periodical,
- (b) a broadcast made by the British Broadcasting Corporation or Sianel Pedwar Cymru, or
- (c) a programme included in any service licensed under Part 1 or Part 3 of the Broadcasting Act 1990 or Part 1 or Part 2 of the Broadcasting Act 1996,

are not referendum expenses for the purposes of Part 7 of this Act.

Cheryl Gillan

15th December 2010

Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the referendum in Wales that will be held in accordance with the National Assembly for Wales Referendum (Assembly Act Provisions) (Referendum Question, Date of Referendum Etc.) Order 2010. This referendum is about the question of whether the “Assembly Act” provisions in Part 4 of the Government of Wales Act 2006 should be brought into force, (“the Welsh referendum”).

This Order extends the time period during which applications can be made to the Electoral Commission by permitted participants in the Welsh referendum campaign to become a designated organisation under section 108 of the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”), sets limits for the expenditure of different categories of permitted participants in that campaign and makes clear that media coverage of the referendum campaign is not regarded as referendum expenses for the purposes of Part 7 of the 2000 Act.

Article 3 extends the period during which an individual or body, which has notified the Electoral Commission that it wishes to be registered as a permitted participant in the Welsh referendum campaign may apply to become a designated organisation receiving financial assistance under sections 108 and 110 of the 2000 Act, from 28 days from the beginning of the referendum campaign to 35 days.

Article 4 sets out in the table the limit on referendum expenses for each category of permitted participant, including designated organisations, registered political parties and other permitted participants. These limits will apply only if registered political parties notify the Electoral Commission that they will be permitted participants in the referendum in accordance with section 105 of the 2000 Act. The limits are based on the share of the votes cast in the Assembly election in 2007 for registered political parties in relation to both candidates in the constituency elections and registered parties in the electoral region elections. In both cases the relevant percentage is arrived at by combining the percentage of the total votes cast in the constituency elections for candidates of a registered political party with the percentage of votes cast in the electoral region elections for the same parties and then by weighting those percentages to reflect the composition of the Assembly itself, so that the constituency vote percentage is two thirds, and the electoral region percentage one third, of the total relevant percentage.

Article 5 states that Schedule 13 of PPERA takes effect in relation to the Welsh referendum as if an additional exclusion had been inserted into Part 1; this makes explicit that the expenses of producing articles in the print media or items or programmes in the broadcast media are not regarded as referendum expenses and so do not require the publishers or producers of such material to register as permitted participants under Part 7 of the 2000 Act.

No regulatory impact assessment has been carried out for this instrument as it has no significant impact on the costs of business, charities, voluntary bodies or the public sector.