

National Assembly for Wales

The National Assembly for Wales Referendum 2011

January 2011

A referendum to decide whether or not the National Assembly for Wales gains further legislative powers will take place on 3 March 2011.

This paper provides an introduction to and an overview of the referendum. It explains the legal context of the referendum and provides information about the rules and procedures that will be in place in the run up to, and during, polling day.

This paper does not summarise the issues at stake in the referendum itself and does not provide information relating to the referendum campaign groups.

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National Assembly for Wales

The National Assembly for Wales Referendum 2011

January 2011

Owain Roberts

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Additional research work on this paper was completed by Siân Nicholson, a postgraduate student at Aberystwyth University's Department of International Politics.

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National Assembly for Wales Referendum 2011

1. Introduction

A referendum to decide on whether or not the National Assembly gains further legislative powers (“the referendum”) will take place on 3 March 2011.

The current arrangements, which are specified in Part 3 of the *Government of Wales Act 2006*¹ (“the 2006 Act”), allow the National Assembly to pass primary legislation, known as “Assembly Measures”, but only if it has received the necessary legislative powers to do so via Matters inserted, with the agreement of Parliament, within the 20 Fields in Schedule 5 to the 2006 Act.²

Should a majority vote in favour of further powers to the National Assembly and for a move to Part 4 of the 2006 Act in the referendum, the National Assembly will be able to pass legislation, in the form of “Assembly Acts”, under all of the areas outlined in the 20 Subjects included in Schedule 7 to the 2006 Act. Should there be a majority vote against further powers, the current arrangements, outlined under Part 3 of the 2006 Act, will continue.

This paper provides an introduction to and an overview of the referendum. It explains the legal context of the referendum as set out by the 2006 Act and the *Political Parties, Elections and Referendums Act 2000*³ (“the PPERA 2000”) and provides information about the rules and procedures that will be in place in the run up to and during polling day.

This paper does not summarise the issues at stake in the referendum itself and does not provide information relating to the referendum campaign groups.

2. Background

The referendum is a culmination of a process which began with the formation of the [One Wales](#) coalition between Labour and Plaid Cymru in June 2007. The coalition agreement signed by both parties on 27 June 2007 included a specific commitment to “proceed to a successful outcome of a referendum for full law-making powers under Part IV of the *Government of Wales Act 2006* as soon as practicable, at or before the end of the Assembly term”.⁴

On 9 February 2010 the National Assembly unanimously approved a resolution proposed by the First Minister, the Rt. Hon Carwyn Jones AM, calling for an Order

¹ [Government of Wales Act 2006 \(c.32\)](#)

² Further information about the National Assembly’s current legislative powers is available in a series of [MRS Quick Guides relating to the Constitution](#).

³ [Political Parties, Elections and Referendums Act 2000 \(c.41\)](#)

⁴ [Welsh Government, One Wales: A progressive agenda for the government of Wales, June 2007, page 6 \[Accessed 10 January 2011\]](#)

to be made under Clause 103(1) of the 2006 Act that would cause a referendum on further powers to be held throughout Wales. A subsequent Order confirming that such a referendum would be held on 3 March 2011 was approved by both Houses of the UK Parliament and the National Assembly during November 2010.⁵

2.1. 1997 Referendum

The National Assembly was created following the referendum which took place on 18 September 1997. Of the 50.1 per cent of the electorate who turned out to vote in the referendum, 50.3 per cent voted in favour of creating a National Assembly with 49.7 per cent against.⁶

A breakdown of the 1997 referendum result by each constituency is included in the attached table:

⁵ Further information relating to the steps which were required to be taken before a referendum on further powers to the National Assembly could take place is included in the [MRS Quick Guide: Steps to a referendum on further powers](#).

⁶ [Welsh Government, *The 1997 Referendum* \[Accessed 10 January 2011\]](#)

Table 1: 1997 referendum result by constituency⁷

Local Authority	Turnout %	Agree	%	Do not agree	%
Blaenau Gwent	49.3	15,237	56.4	11,928	43.6
Bridgend	50.6	27,632	54.4	23,172	45.6
Caerphilly	49.3	34,830	54.7	28,841	45.3
Cardiff	46.9	47,527	44.4	59,589	55.6
Carmarthenshire	56.4	49,115	65.3	26,119	34.7
Ceredigion	56.8	18,304	59.2	12,614	40.8
Conwy	51.5	18,369	40.9	26,521	59.1
Denbighshire	49.7	14,271	40.8	20,732	59.2
Flintshire	41	17,746	38.2	28,707	61.8
Gwynedd	59.8	35,425	64.1	19,859	35.9
Merthyr Tydfil	49.5	12,707	58.2	9,121	41.8
Monmouthshire	50.5	10,592	32.1	22,403	67.9
Neath and Port Talbot	51.9	36,730	66.5	18,463	33.5
Newport	45.9	16,172	37.4	27,017	62.6
Pembrokeshire	52.6	19,979	42.8	26,712	57.2
Powys	56.2	23,038	42.7	30,966	57.3
Rhondda Cynon Taff	49.9	51,201	58.5	36,362	41.5
Swansea	47.1	42,789	52	39,561	48
Torfaen	45.5	15,756	49.8	15,854	50.2
Vale of Glamorgan	54.3	17,776	36.7	30,613	63.3
Wrexham	42.4	18,574	45.3	22,449	54.7
Ynys Mon	56.9	15,649	50.9	15,095	49.1

⁷ [BBC Website, Welsh Referendum Live - The Final Result \[Accessed 18 January 2011\]](#)

3. The conduct and administration of the referendum

The rules governing the conduct and administration of the referendum are set out in numerous clauses of the 2006 Act in addition to the PPERA 2000. Detailed guidance and information about the administration of the referendum is provided in two additional Orders made under those Acts.

Schedule 6 of the 2006 Act outlines the matters to be specified in an Order made by the Secretary of State under Clause 103(1) relating to the referendum. These include, amongst other things, the referendum question and preceding statement and a date for the referendum. Schedule 6 to the 2006 Act also stipulates certain provisions relating to the conduct of the referendum itself, including information about who would be entitled to vote.

Further provisions relating to the conduct of referendums in the UK are included in Part 7 of the PPERA 2000. These provisions are mainly general requirements such as the length of the referendum period, the scrutiny of proposed referendum questions, the permitted participants, the designation of lead campaign groups and the assistance permitted for those designated organisations. It also covers financial control, controls on publications and conduct of referendums. In addition, PPERA 2000 also places a duty on the Electoral Commission to:

- Comment on the wording of the referendum question;
- Register campaigners;
- Regulate campaign spending and donations;
- Designate lead campaign groups;
- Set and administer the grants to lead campaign groups;
- Report on the administration and conduct of the referendum; and
- Ensure the overall accuracy of the result.

The bulk of the rules regulating the conduct and administration of the referendum are included in two Orders made under the two Acts mentioned above and approved by the National Assembly and both Houses of the UK Parliament:

- *The National Assembly for Wales Referendum (Assembly Act Provisions) (Referendum Question, Date of Referendum etc.) Order 2010*⁸ (“the Referendum Order”) is made under Clause 103(1) along with Schedule 6 to the 2006 Act. It makes the main detailed provisions relating to the holding of the referendum itself, including the date, question and referendum rules.

⁸ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010, No.2837](#)

- *The National Assembly for Wales (Assembly Act Provisions) (Limit on Referendum expenses Etc.) Order 2010*⁹ (“the Referendum Expenses Order”) is made under Clauses 109(6) and 156(5), along with Schedules 13 and 14 of PPERA 2000. It specifies the limits to the referendum expenses by permitted participants during the referendum period.

3.1. *Referendum constituencies*

According to Paragraph 6 of the Referendum Order, the voting areas for the forthcoming referendum will “be divided into the same polling districts ... as would have effect for the purposes of local government elections”.¹⁰ The current 22 Local Government election polling districts for local government elections in Wales are as follows:

- Blaenau Gwent County Borough Council;
- Bridgend County Borough Council;
- Caerphilly County Borough Council;
- Cardiff Council;
- Carmarthenshire County Council;
- Ceredigion County Council;
- Conwy County Borough Council;
- Denbighshire County Council;
- Flintshire County Council;
- Gwynedd Council;
- Isle of Anglesey County Council;
- Merthyr Tydfil County Borough Council;
- Monmouthshire County Council;
- Neath Port Talbot County Borough Council;
- Newport City Council;
- Pembrokeshire County Council;
- Powys County Council;
- Rhondda Cynon Taf County Borough Council;
- City & County of Swansea;
- Torfaen County Borough Council;
- Vale of Glamorgan Council; and
- Wrexham County Borough Council

⁹ [The National Assembly for Wales \(Assembly Act Provisions\) \(Limit on Referendum expenses Etc.\) Order 2010, No.2985](#)

¹⁰ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010 No.2837, paragraph 6\(1\)](#)

3.2. *Referendum period*

Paragraph 5 of the Referendum Order states, in accordance with provisions in Part 7 of the PPERA 2000 that, “the referendum period for the referendum begins with the date on which this order comes into force and ends with the date of the poll at the referendum”.¹¹

The referendum period therefore began on 16 December 2010 and will end on 3 March 2011. During this period, rules on campaigning, spending and donations apply. Under Clause 125 of the PPERA 2000 however, different rules apply to the publication of information relating to the referendum by public bodies in the days leading up to the poll. Details of these are included in paragraph 4.6 below.

3.3. *Date and time of the referendum poll*

Paragraph 3, along with Paragraph 4 of Schedule 3 of the Referendum Order states that **the poll will take place between the hours of 7am and 10pm on 3 March 2011.**¹²

3.4. *Referendum question and preceding statement*

Paragraph 4 of the Referendum Order states that the question and the preceding statement for the referendum will be the following:

The National Assembly for Wales: what happens at the moment

The Assembly has powers to make laws on 20 subject areas, such as:

Agriculture	Health
Education	Housing
The Environment	Local Government

In each subject area, the Assembly can make laws on **some** matters, but not others. To make laws on any of these other matters, the Assembly must ask the UK Parliament for its agreement. The UK Parliament then decides each time whether or not the Assembly can make these laws.

The Assembly cannot make laws on subject areas such as defence, tax or welfare benefits, whatever the result of this vote.

If most voters vote “yes”, the Assembly will be able to make laws on all matters in the 20 subject areas it has powers for, without needing the UK Parliament’s agreement.

¹¹ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010 No.2837, paragraph 5](#)

¹² [Ibid, paragraph 3 and Schedule 3](#)

If most voters vote “no”, what happens at the moment will continue.

Do you want the Assembly now to be able to make laws on all matters in the 20 subject areas it has powers for?¹³

The Referendum Order stipulates that both the preceding statement and question must appear in English and Welsh on all ballot papers.

3.5. Role and responsibilities of Counting Officers

Clause 128(2) of the PPERA 2000 states that the Chair of the Electoral Commission, or someone they appoint, is the Chief Counting Officer for each referendum. **The Chief Counting Officer for this referendum will be the Chair of the Electoral Commission, Jenny Watson and the Deputy Chief Counting Officer will be the Chief Executive of Pembrokeshire County Council, Bryn Parry-Jones.**¹⁴

The Chief Counting Officer is responsible for:

- Appointing a Counting Officer for each local authority area within the referendum area;
- Calculating and declaring the total number of ballot papers counted; and
- Calculating and declaring the total number of votes cast in favour of each answer to the referendum question (the result).¹⁵

A Counting Officer has a similar role to a Returning Officer at an election. According to Paragraph 10(3) of the Referendum Order they are responsible for:

- Running the poll in their area;
- Making sure that all ballot papers that have been properly completed are included in the count;
- Counting the votes cast in their area; and
- Calculating the number of votes cast in favour of each answer to the referendum question, and passing that information to the CCO.¹⁶

Under Paragraph 14 of Schedule 3 to the Referendum Order, a Counting Officer must also appoint and pay a Presiding Officer and Clerks to attend each polling station and oversee the poll in their area.

¹³ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010 No.2837, paragraph 4\(1\)](#)

¹⁴ [Electoral Commission, Chief Counting Officer \[Accessed 7 January 2011\]](#)

¹⁵ [Ibid](#)

¹⁶ [Ibid](#)

3.6. *Registered campaigners*

Under the PPERA 2000, those wishing to spend more than £10,000 on campaigning during the referendum period must register with the Electoral Commission to become a registered campaigner (or “permitted participant”). According to the Electoral Commission, the benefits of this include:

- A spending limit above £10,000;
- Access to the electoral register to help your campaign; and
- The right for representatives to attend postal vote opening sessions, polling stations and the counting of votes.¹⁷

The Electoral Commission opens its registers for prospective campaigners at the beginning of each referendum period. Only the following types of individuals or organisations can register as campaigners:

- An individual who is resident in the UK or registered on a UK electoral register;
- A UK-registered political party;
- A UK-registered company which is incorporated in the EU and carries on business in the UK;
- A UK-registered trade union;
- A UK-registered building society;
- A UK-registered limited liability partnership which carries on business in the UK;
- A UK-registered friendly, industrial, provident or building society; and
- A UK-based unincorporated association that carries on the majority of its business or other activities in the UK.¹⁸

3.7. *Lead campaign groups*

PPERA 2000 also states that registered campaign groups can apply to the Electoral Commission to become one of the lead campaign groups (“designated organisation”). According to the Electoral Commission’s guidance on the designation process:

One lead campaign group (also called a designated organisation) represents each side of the referendum debate. They act as the lead campaign group on behalf of those campaigning for that outcome.

¹⁷ [Electoral Commission, *Topic Overview: Overview of referendum campaigns*, page 6 \[Accessed 7 January 2011\]](#)

¹⁸ [Ibid](#)

Lead campaign groups have certain benefits over other registered campaigners. For example, they have a higher spending limit than other registered campaigners, and receive a grant from us.¹⁹

The benefits for a lead campaign group include:

- A higher spending limit than other registered campaigners;
- Free distribution of information to electors;
- Referendum campaign broadcasts;
- Free use of certain public rooms; and
- A publicly funded grant set by the Electoral Commission.²⁰

According to guidance issued by the Electoral Commission, particular consideration will be given to the information provided by applicants for lead campaign status in relation to:

- Support for the application: The extent to which a group represents a range of campaigners for the outcome supported;
- Plans for representing other campaigners: The extent to which a group will try to engage other groups who are campaigning for the outcome supported;
- Campaigning capacity: A group's ability to reach as many voters as possible across the referendum area in order to adequately represent those campaigning for the same outcome; and
- Organisational capacity: Whether a group has the ability to adequately represent others campaigning for the outcome supported.²¹

Once applications are received, the Electoral Commission must then designate the applicants "who best represent those supporting their chosen referendum outcome".²² **If the Electoral Commission consider that none of the applicants adequately represent those supporting an outcome, then they "cannot designate a lead campaign group on either side".**²³

This issue was raised by Elfyn Llwyd MP during a debate on the Referendum Order in a meeting of the House of Commons Fourth Delegated Legislation Committee on 24 November 2010:

I understand that the Electoral Commission, once the "yes" campaign has gone through certain categories, will register it as being able to draw down public funding. It will not be able to do so unless the "no" campaign has similarly met those criteria. I am hopeful that somebody somewhere, who might even read what we are discussing today, will look at that. If for some reason the "no" campaign did not get itself in order in time, that would deprive

¹⁹ [Electoral Commission, *Situations and Procedures: The designation process*, page 3 \[Accessed 7 January 2011\]](#)

²⁰ [Electoral Commission, *Situations and Procedures: The designation process*, page 8 \[Accessed 7 January 2011\]](#)

²¹ [Electoral Commission, *National Assembly for Wales Referendum 2011: Application for lead group status*, page 3 \[Accessed 14 January 2011\]](#)

²² [Ibid, page 3](#)

²³ [Ibid](#)

the “yes” campaign of broadcasting rights, free broadcasting and public funding. I make that point in passing, because, in the interests of democracy, we need a full and open debate. I am not trying to issue a back-handed insult to the “no” campaign; evidently I shall not be in that camp. Having said that, the process could be clogged—I hope that somebody referring to the debate will look at that, because it is an important point.²⁴

In response, the Rt. Hon David Jones MP, the Parliamentary Under-Secretary of State for Wales, stated that:

If the Electoral Commission cannot designate an official campaign on both sides, it will not designate an official campaign. However, it would be for the Electoral Commission to decide whether it should provide further information in that event. The commission has wide power under article 16 to promote public awareness of the referendum, its subject matter and how to vote in it²⁵.

The application process for lead campaign groups closed on 19 January 2011. The Electoral Commission must make a decision on designating lead campaigners by 2 February 2011.²⁶

3.8. Referendum, Polling and Counting Agents

Paragraph 18 of the Referendum Order states that registered campaigners can appoint an individual to act as their Referendum Agent in each constituency. The Electoral Commission define Referendum Agents as responsible for appointing representatives in their area to attend:

- Postal vote opening sessions;
- Polling Stations; and
- The counting of the votes.²⁷

Paragraph 17 of Schedule 3 to the Referendum Order also states that Referendum Agents can appoint Polling Agents and Counting Agents to attend the counting of votes and to attend polling stations for the purpose of detecting personation (i.e. the act of counterfeiting the character of another voter).

3.9. Limits to campaign finance

Paragraph 4 of the Referendum Expenses Order states that the spending limit for a designated lead campaign group is £600,000.²⁸ In addition, a grant of £70,000 is available to the lead campaign group to be used for infrastructure (e.g. offices, staff etc.), but not campaigning costs.²⁹

²⁴ [HC Fourth Delegated Legislation Committee, Wednesday 24 November 2010, cm9 \[Accessed 14 December 2010\]](#)

²⁵ [Ibid, cm13](#)

²⁶ [Electoral Commission, *Situation and Procedures: National Assembly for Wales Referendum 2011 \(Specific Guidance\)*, page 10 \[Accessed 7 January 2011\]](#)

²⁷ [Electoral Commission, *Situation and Procedures: National Assembly for Wales Referendum 2011 \(Specific Guidance\)*, page 7 \[Accessed 7 January 2011\]](#)

²⁸ [The National Assembly for Wales Referendum \(Assembly Act Provisions\) \(Limit on Referendum Expenses Etc.\) Order 2010, No.2985](#)

²⁹ [Ibid](#)

The Referendum Expenses Order also stipulates the limits applicable to registered political parties based on their share of the vote at the last elections to the National Assembly in May 2007. The figures for each party are included below:

- Labour Party can spend up to £600,000;
- Conservative Party can spend up to £480,000;
- Plaid Cymru can spend up to £480,000;
- Liberal Democrats can spend up to £360,000;
- Any other party can spend up to £100,000.³⁰

Campaigners who are not registered with the Electoral Commission may spend up to £10,000; however they must register if they intend to, or actually do, spend more than £10,000 during the referendum period. Those who are registered campaigners, and who are not one of the main political parties listed above, are subject to a limit of £100,000.³¹

Further information relating to the rules that apply to campaign spending during the referendum and campaign donations are available on the [Referendum on the law-making powers of the National Assembly for Wales 2011](#) page on the Electoral Commission's website.

³⁰ [Electoral Commission, *Situation and Procedures: National Assembly for Wales Referendum 2011 \(Specific Guidance\)*, page 6 \[Accessed 7 January 2011\]](#)

³¹ [Ibid](#)

4. Who votes?

4.1. *Who can vote?*

Paragraph 1(1) of Schedule 6 to the 2006 Act states that those entitled to vote in the referendum are the same as those entitled to vote in National Assembly elections. Clause 12 of the 2006 Act stipulates that persons entitled to vote in National Assembly elections are those registered in the register of local government electors at an address within Wales.

According to the Electoral Commission, a person must be one of the following in order to be able to register to vote for local government elections:

- A British citizen living in the UK;
- A qualifying Commonwealth citizen living in the UK;
- A citizen of the Republic of Ireland living in the UK;
- A European Union citizen living in the UK;
- Someone registered to vote as a Crown Servant; and / or
- Someone registered to vote as a service voter.

A British citizen living abroad who is registered as an overseas elector cannot vote in local government elections.³²

4.2. *Registration*

Electoral registration is the compiling and keeping of the electoral register. Section 8 of the *Representation of the People Act 1983*³³ (“the RPA 1983”) requires Electoral Registration Officers (“EROs”) to be appointed in order to register electors. EROs are required to prepare and publish a register of electors for their area each year and maintain it throughout the year. It is their statutory duty to include the names of everyone who appears to them to be eligible, taking reasonable steps to obtain the required information.

There are two ways to register to vote, the first one being the “Annual Canvas” during which a form is sent to every house to register between September and November every year. The second one is rolling registration where registration can be done at any time during the year as the register is updated every month between December and September.

Although registration is not in itself compulsory, an ERO has the power to require information for the purposes of maintaining the register of electors. A penalty for failing to complete and return the electoral registration form or for giving false

³² [Electoral Commission, *Who is eligible to vote at a local government election?* \[accessed 6 December 2010\]](#)

³³ [Representation of the People Act 1983 \(c.2\)](#)

information was first imposed in 1918 and extended to include rolling registration in 2006. The current penalty for this offence is a fine not exceeding £1,000.

It is not necessary to register specifically for the referendum; if a voter is on the electoral register then they will be able to vote. If a voter is not on the electoral register however, the deadline for applications in order to be able to vote in the referendum is midnight on 16 February 2011.³⁴ If a voter has recently moved house or changed their name, they will need to re-register to be eligible to vote.

4.3. Proxy and Postal Voting

Those who do not want to go to the polling station on polling day can apply in advance either to vote by post or arrange for someone to cast their vote on their behalf (proxy votes). This can assist disabled and elderly voters to take part in the electoral process.

The right to choose to vote by post by all voters on demand was introduced by the *Representation of the People Act 2000*,³⁵ and the security provisions relating to postal votes were subsequently strengthened by *The Representation of the People (England and Wales) (Amendment) (No. 2) Regulations 2006*³⁶ and the *Electoral Administration Act 2006*.³⁷

In the 2007 National Assembly elections 13 per cent of eligible electors requested a postal vote and 78 per cent were returned.³⁸ In the UK General Election on 6 May 2010, 15 per cent of eligible electors were issued with a postal vote and 83 per cent returned them.³⁹

Schedule 2 of the Referendum Order outlines the processes by which postal votes are issued and collected. According to these regulations, **no postal ballot paper and postal voting statement may be issued until after 5p.m on 16 February 2011.**

The deadline for applications to vote by proxy (except applications in the event of medical emergencies) is 5pm on 23 February 2011.

Paragraph 3 of Schedule 1 to the Referendum Order states that an ERO must grant an application from a person to vote by post or vote by proxy if the ERO is satisfied that the applicant is on the electoral register and that the application

³⁴ [Electoral Commission, *The National Assembly for Wales Referendum 2011 \(Specific Guidance\)*, page 11 \[Accessed 11 January 2011\]](#)

³⁵ [Representation of the People Act 2000 \(c.2\)](#)

³⁶ [The Representation of the People \(England and Wales\) \(Amendment\) \(No. 2\) Regulations 2006](#)

³⁷ [Electoral Administration Act 2006 \(c.22\)](#)

³⁸ [Electoral Commission, *The National Assembly for Wales Referendum 2011 \(Specific Guidance\)*, page 6 \[Accessed 11 January 2011\]](#)

³⁹ [Electoral Commission, *Report on the administration of the 2010 UK general election*, July 2010, paragraph 5.5 \[Accessed 14 January 2011\]](#)

meets all the requirements set out in paragraphs 9 and 10 of Schedule 1. These requirements include the need to provide personal details and must:

- In the case of an application for a postal vote, set out why the applicant's circumstances will be or are likely to be such that the applicant requires the ballot paper to be sent to the address stated;
- In the case of an application for the appointment of a proxy, state the full name and address of the person whom the applicant wishes to appoint as proxy; and
- In the case of an application to vote by proxy, contain a statement of the reasons why the applicant's circumstances on the date of the poll at the referendum will be or likely to be such that the application cannot reasonably be expected to vote in person at the polling station allotted to the applicant.

A code of conduct on the handling of postal vote applications and postal ballot papers will be issued by the Electoral Commission in due course. This will appear on the [Guidance Chart](#) pages of the Electoral Commission's website.

4.4. Language issues

Linguistic ability is an important factor in allowing individuals to access the electoral process, whether in terms of registration, as discussed above, or in the act of voting, such as understanding the ballot paper or being able to access advice. Currently, key statutory forms such as ballot papers and registration are available in English and Welsh in Wales.

Paragraph 19(2) of the Referendum Order states that:

The person who is required or authorised to give or display the document must give or display or otherwise make available in such form as that person thinks appropriate—

- (a) The document in Braille;
- (b) The document in languages other than English and Welsh;
- (c) Graphical representations of the information contained in the document; and
- (d) Other means of making the information accessible to persons who might not otherwise have reasonable access to the information.⁴⁰

The Electoral Commission website, [About My Vote](#), also provides information in Arabic, Bengali, Chinese (traditional), Gujarati, Hindi, Latvian, Lithuanian, Polish, Portuguese, Punjabi and Urdu and states that information in other languages may be available on request.

⁴⁰ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010, No.2837, paragraph 19\(2\)](#)

4.5. Promotion

Paragraph 16 of the Referendum Order states that the Electoral Commission must take steps “to promote public awareness in Wales about the referendum, the subject matter of the referendum and how to vote in the referendum”.⁴¹

The Electoral Commission has outlined what their public awareness activity will be with regard to referendums in their principal paper outlining their role in the running of referendums:⁴²

- The Electoral Commission will give positive consideration to doing public awareness activity;
- The Electoral Commission’s focus will be on providing voter information and ensuring that people are registered to vote;
- A household voter information booklet will be the core communication (subject to delivery before postal votes arrive); and
- The extent of the Electoral Commission’s activity will be agreed on case-by-case basis, including the provision of information on the meaning of a ‘yes’ and ‘no’ vote in event that the Commission can’t designate a lead campaign group. This will be based on a variety of factors such as the level of campaigning underway and how much voters already know about the referendum issue.

Under Paragraph 5 of Schedule 2 to the 2006 Act the National Assembly Commission may also promote public awareness of National Assembly elections and the current or any pending system of devolved government of Wales. Under Paragraph 6 to Schedule 2 to the 2006 Act, the Assembly Commission may also provide financial assistance to the Electoral Commission for the purpose of enabling it to carry out its functions under Clause 13(1) of PPERA 2000.

The National Assembly launched its [Vote 2011](#) campaign on 10 January 2011. The aim of the campaign is to raise public awareness and to encourage people to vote in the 2011 Assembly elections (as well as reminding them about the other polls taking place during the first half of the year, namely the referendum on further powers to the National Assembly and the referendum on changing the voting system to the UK Parliament..

⁴¹ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010. No.2837, paragraph 16](#)

⁴² [The Electoral Commission Key principles for Referendums, page 3 \[accessed 6 December 2010\]](#)

4.6. *Publicity*

Clause 125 of the PPERA 2000 restricts the Welsh Government and other bodies supported by public funds (which includes the National Assembly Commission) to publish any material which:

- (a) provides general information about a referendum to which this Part applies;
- (b) deals with any of the issues raised by any question on which such a referendum is being held;
- (c) puts any arguments for or against any particular answer to any such question; or
- (d) is designed to encourage voting at such a referendum.⁴³

The publication of such information is prohibited in the 28 days immediately prior to the poll. This does not however relate, under the Act, to material specifically sought by a member of the public or to factual information relating to the conduct of the poll or the issue of press notices. The BBC and S4C are exempt from the restriction, as is the Electoral Commission itself.⁴⁴

In a written statement issued on 16 December 2010, the First Minister, the Rt. Hon Carwyn Jones AM, clarified the position of the Welsh Government in relation to Clause 125 of the PPERA 2000:

These statutory restrictions will apply for the 28 days before the poll. However we have also agreed with the Electoral Commission that the Welsh Assembly Government will not engage in any publicity campaign about the referendum. This will apply from today, up to and including the date of the poll.⁴⁵

⁴³ [Political Parties, Elections and Referendums Act 2000 \(c.41\), section 125](#)

⁴⁴ [Electoral Commission, *Referendums Factsheet*, November 2009, page 2 \[Accessed 13 January 2011\]](#)

⁴⁵ [Welsh Assembly Government, *Written Statement: Referendum Period*, 16 December 2010 \[Accessed 14 January 2012\]](#)

5. Polling Day

Polling day for the referendum is Thursday 3 March 2011 and the polling hours will be between 7am and 10pm.

5.1. Who can attend the polling station?

According to the Referendum Order the following people can attend the polling station during polling day:⁴⁶

- Voters;
- Persons under the age of 18 who accompany voters to the polling station;
- Companions of voters with disabilities;
- Referendum Agents;
- Polling Agents appointed to attend at the polling station;
- Clerks appointed to attend the polling station;
- The Chief Counting Officer, a Deputy Chief Counting Officer and members of the Chief Counting Officer's staff;
- A Counting Officer and members of the Counting Officer's staff;
- Representatives of the Electoral Commission and accredited observers; and
- Constables on duty.

All those who enter the polling station should be aware of the requirement to ensure the secrecy of the ballot.⁴⁷

5.2. Exit Polls

Paragraph 7 of Schedule 4 to the Referendum Order prohibits the publication before the close of poll of exit polls, namely:

(a) any statement relating to the way in which voters have voted in the referendum where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or

(b) any forecast as to the result of the referendum which is (or might reasonably be taken to be) based on information so given.⁴⁸

Paragraph 7(3) and (4) of Schedule 4 to the Referendum Order stipulates that if a person is found to be guilty of this offence then they could be liable to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale.

⁴⁶ [The National Assembly for Wales Referendum \(Assembly Provisions\) \(Referendum Question, Date of Referendum etc.\) Order 2010, No.2837, Schedule 3 paragraph 20\(1\)](#)

⁴⁷ [Ibid, Schedule 3 paragraph 18](#)

⁴⁸ [Ibid, Schedule 3 paragraph 7](#)

5.3. *Time of Count*

Paragraph 33 of Schedule 3 to the Referendum Order states that the counting of votes for the referendum must not begin before 9am on the day following the close of the poll (Friday, 4 March 2011). This means that the count cannot take place overnight, as was the case with the 1997 devolution referendum in Wales.

The reasons provided by the Chief Counting Officer in deciding to hold the count on the day following the close of the poll are summarised by the Electoral Commission in the [Timing of the count for the referendum on the law making powers of the National Assembly for Wales](#) document. The three main reasons provided in favour of a Friday count are:

- An efficient and effective count, which would start in a coordinated manner that voters can have confidence in;
- Potential adverse weather conditions in early March which may cause delays to the delivery of ballot boxes to count centres; and
- Greater public access to the democratic process by providing a greater opportunity to ensure that the delivery of the result is a democratic event in itself, which could be showcased by the media in Wales. This would ensure greater public access to the process.⁴⁹

5.4. *Re-counts*

Paragraph 37 of Schedule 3 to the Referendum Order allows Referendum Agents and designated Counting Agents, who are present at the completion of the counting of the votes in their particular area, to ask for the votes to be re-counted. The Counting Officer may refuse such a request however if he or she deems it as unreasonable.

5.5. *Declaration of the Results*

Paragraph 39 of Schedule 3 to the Referendum Order states that when the Chief Counting Officer has determined that it is appropriate to do so, the Chief Counting Officer must direct a Counting Officer to certify:

- The number of ballot papers counted by him; and
- The number of votes cast in favour of each answer to the question asked in the referendum.

The Counting Officer must also provide the Chief Counting Officer with the number of rejected ballot papers received. Once authorisation by the Chief

⁴⁹ [The Electoral Commission The Chief Counting Officer's decision on the timing of the count \[Accessed 14 January 2011\]](#)

Counting Officer has been received, the Counting Officer must then make a public declaration and give a public notice in writing of the result in his / her area.

Paragraph 40 of Schedule 3 to the Referendum Order stipulates that following the announcement of all the results from each local authority area by each Counting Officer, the Chief Counting Officer must certify:

- The total number of ballot papers counted; and
- The total number of votes cast in favour of each answer.

Under Paragraph 40(2) of Schedule 3 to the Referendum Order, at the same time as the Chief Counting Officer makes a public declaration of the referendum result, she must send a copy of that notice to the Secretary of State for Wales and the Welsh Ministers.

5.6. Commencement provisions

Under Clause 105 of the 2006 Act, should a majority vote “Yes” in the referendum, the Welsh Ministers are then required to make provisions for Part 4 of the 2006 Act to come into force by order. Such an order would have to be laid before the National Assembly by Welsh Ministers and would require the approval of a majority of Assembly Members in Plenary before coming into effect.

Should a majority vote “No” in the referendum, no further steps would be required as the current arrangements, outlined under Part 3 of the 2006 Act, would continue to apply.

Annex: Key Dates in the Referendum Campaign

Date	Event
9 February 2010	Resolution, required under Clause 104(1) of the 2006 Act, calling for a referendum passed by the National Assembly.
17 February 2010	The Rt. Hon Carwyn Jones AM, the First Minister, writes to the Secretary of State to recommend to Her Majesty in Council to make an Order in Council for the referendum under Clause 103(1) of the 2006 Act.
6 May 2010	UK General Election
15 June 2010	The Rt. Hon Cheryl Gillan MP, the Secretary of State for Wales, gave reasons for not putting the resolution to Westminster under the 120 day rule.
23 June 2010	Secretary of State writes to the Electoral Commission to invite its views on the intelligibility of the question and preceding statement for the proposed referendum submitted by the UK Government.
2 September 2010	The Electoral Commission produces its report on the intelligibility of the referendum question, and suggested their own question.
21 October 2010	The Secretary of State lays both the Referendum and Referendum Expenses Orders, required by the 2006 Act and the PPERA 2000 ahead of the referendum poll, before the UK Parliament.
9 November 2010	Referendum Order approved by the National Assembly.
23 - 25 November 2010	Referendum and Referendum Expenses Orders approved by the House of Commons and House of Lords.
15 December 2010	Referendum and Referendum Expenses Orders made by Her Majesty in Council.
16 December 2010	Beginning of the referendum period where rules on campaigning, spending and donations apply.

19 January 2011	Deadline for applicants to be designated lead campaign groups.
2 February 2011	Deadline for the Electoral Commission to designate lead campaign groups.
9 February 2011	Deadline for notifying the appointment of Referendum Agents.
16 February 2011 by 5pm	Deadline for postal vote applications.
16 February 2011 by midnight	Deadline for applications to be on the electoral register.
23 February by 5pm	Deadline for proxy votes.
24 February 2011	Deadline for the Referendum Agent to appoint Polling and Counting Agents.
3 March 2011 (between 7am and 10pm)	Polling day.
3 March 2011 (by 5pm)	Deadline for the issue of replacements for spoilt or lost postal ballot papers.
3 March 2011 (by 5pm)	Deadline for applications to vote by proxy in a medical emergency.
3 March 2011 (by 9pm)	Deadline to correct the electoral register due to clerical errors or court orders.
4 March (not before 9am)	Counting of votes.
2 April 2011	Deadline for the registered campaigners to receive invoices.
2 May 2011	Deadline for the registered campaigners to pay invoices.
3 June 2011	Deadline for the Electoral Commission to receive spending and donations returns if the campaigner has spent under £250,000.

3rd September 2011	Deadline for the Electoral Commission to receive spending and donations returns if the campaigner has spent over £250,000.
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