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The
Electoral
Commission

Y
Comisiwn
Etholiadol

28 January 2009

As you may know the Electoral Commission is an independent body set up by the UK Parliament under the Political Parties, Elections and Referendums Act 2000 (PPEAR). Our aim is integrity and public confidence in the UK's democratic process. We regulate party and election finance and set standards for well-run elections.

We are pleased to be able to submit the enclosed written evidence to the All Wales Convention which outlines, for your information, the Commission's key roles and responsibilities with regard to any future referendum. In view of our particular statutory responsibilities, it would be inappropriate for us to comment on the questions raised in the consultation.

We would be happy to address any individual queries or questions that you may have.

Many thanks.



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Democracy matters

Mae democratiaeth yn cyfrif

An independent body established by Act of the UK Parliament
Corff annibynnol a sefydlwyd gan Ddeddf Seneddol y DU



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The Electoral Commission

1 Key roles and responsibilities in relation to any potential referendum on greater powers for the National Assembly for Wales.

1.1 The Commission has certain statutory roles defined under the Political Parties, Elections and Referendums Act 2000 (PPERA) which sets out a standard framework for the conduct of referendums. Prior to PERA, referendums were carried out using legislative procedures specific to each case. PERA contains the first generic set of provisions. Nevertheless, specific primary legislation is needed to trigger a particular referendum.

1.2 In the case of a referendum on more law-making powers for the Assembly, the specific triggering legislation is the Government of Wales Act 2006 (GWA 2006). Secondary legislation, in the form of an Order in Council, needs to be made once the Assembly has resolved that a referendum should be held. The Order in Council will contain the question to be posed in the referendum and the detailed rules on the conduct of the referendum. The Commission must consider the 'intelligibility' of the referendum question before the legislation can be made.

1.3 Before a referendum is held, there is a 'referendum period' during which a number of restrictions apply. At the beginning of the referendum period, the Commission commences the registration of 'permitted participants' in the campaign. No individual, political party or other organisation may spend over £10,000 without registering as a permitted participant. Within the first 28 days of the referendum period, a permitted participant may also apply to be a 'designated organisation', which is the lead campaign group for either the 'yes' or 'no' campaign. Designated organisations are entitled to grants (up to £600,000 UK-wide) to ensure a minimum level of campaigning; have much higher spending limits (£5 million UK-wide) and gain important entitlements such as freepost distribution of referendum leaflets and referendum broadcasts. The relevant spending and grant limits need to be set for a Wales referendum.

1.4 It is for the Commission to select the designated organisation. The Commission is not obliged to designate if it considers, for example, that none of the organisations can demonstrate sufficient support outside of their own organisation on an 'umbrella' basis. The Commission must, however, designate organisations on both sides of the argument or not at all. If the Commission does not designate, the GWA 2006 requires that the Commission provides public information about the arguments for and against the case. The Commission must designate (or not) within the 14 days following the initial 28 days of the referendum period.

1.5 The date of the referendum must be at least 28 days after the end of that 14 day period. This will be the main campaigning period. That means that the referendum period is at least 10 weeks and is subject to a maximum duration of six months. However, the timescales may be varied by the Order in Council.

1.6 During the 28 day period before the date of the poll, restrictions on publicity apply. No publicity may be published by Ministers, government departments, local authorities or persons or bodies which are publicly-funded. The Commission is exempt from such restrictions.

In summary the Commission must:

- Register 'permitted participants'
- Appoint 'designated organisations'
- In the event of failure to designate, present the arguments ourselves
- Monitoring and reporting on expenditure
- Assess intelligibility of referendum question
- Report on administration of referendum
- Administer fees and charges (if given responsibility through the Order in Council)
- Act as, or appoint, a Chief Counting Officer (CCO)

In addition to these core responsibilities the Commission may:

- Provide guidance for those involved in the referendum – e.g. local Counting Officers, local authority referendum staff (electoral services staff), polling station staff, permitted participants (political parties and other organisations)
- Order in Council may authorise or require Commission to encourage voting (Government of Wales Act 2006 Schedule 6)
- Provide public with information about registering to vote, if enabled by Order in Council
- Operate performance standards regime to drive improvement in the quality of referendum management

January 2008