



Further Draft Electoral Administration Provisions

Presented to Parliament by the Deputy Prime Minister
by Command of Her Majesty
September 2011

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This document sets out a draft electoral administration provision for pre-legislative scrutiny by Parliament. The draft legislation is accompanied by Explanatory Notes in order to assist the reader of the provision and to help inform its consideration.

DRAFT ELECTORAL ADMINISTRATION PROVISIONS

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the draft Electoral Administration provisions published on 14 September 2011. They have been prepared by the Cabinet Office in order to assist the reader of these provisions and to help inform debate on it. They do not form part of the Electoral Administration provisions.
2. The Notes need to be read in conjunction with the Electoral Administration provisions. They are not, and are not meant to be, a comprehensive description of the Electoral Administration provisions. So where a part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY

3. In summary, these draft provisions remove the automatic postponement of parish and community council elections in England and Wales that currently occurs when a Parliamentary or European Parliamentary general election falls on the ordinary day for local government elections.

TERRITORIAL EXTENT AND APPLICATION

4. Clause 2 provides that an amendment or repeal made by this Act has the same extent as the enactment or part of an enactment amended or repealed.
5. The provisions relating to parish and community council elections will apply to elections in England and Wales only.

COMMENTARY ON CLAUSES

Clause 1: Timing of parish and community council elections in England and Wales

6. Section 16 of the Representation of the People Act 1985 currently has the effect of postponing a poll at a parish or community council election in England and Wales for three weeks if the poll would otherwise have been held on the ordinary day for local government elections, but this is also the date of the poll at a UK Parliamentary general election or a European Parliamentary general election. This clause repeals section 16 so that in England and Wales a poll at a parish or community council election may be held on the ordinary day of election of councillors even if this is also the date of the poll at a Parliamentary or European Parliamentary general election. This will allow polls at parish and community council elections more often to be run in combined form with polls at other elections.

FINANCIAL EFFECTS OF THE PROVISIONS

7. We have developed the provisions in discussion with key stakeholders and our view is that the proposal does not have significant impacts on cost and resources. We expect that removing the automatic postponement of parish and community council elections, so as to allow them to coincide with other polls should make for more effective administration of elections and result in some modest savings as a result of the parish and community council elections being combined with other elections. The pre-legislative scrutiny process will provide an opportunity for the possible impacts of the proposal to be considered further.

EFFECT OF THE PROVISIONS ON PUBLIC SERVICE MANPOWER

8. We do not expect the proposal to have any significant impact on public service manpower.

IMPACT ASSESSMENT

9. The draft clauses have no impact on business or the third sector as the nature of the impact of the proposed provisions falls on citizens.

EUROPEAN CONVENTION ON HUMAN RIGHTS

10. Although section 19(1) of the Human Rights Act 1998 does not require a minister to sign a statement of compatibility with the European Convention on Human Rights (“ECHR”) in relation to draft legislation, the Government’s view is that the draft clauses are compatible with the Convention rights as defined by section 1 of the 1998 Act and it would be possible for a minister to make a statement of compatibility under section 19(1)(a) of that Act.
11. In the Government’s view none of the provisions engages Convention rights. However, to the extent that any of these provisions may be considered to engage rights set out in Article 3 of Protocol 1 to the ECHR (the right to free elections), the provisions are compatible with those rights. The provisions make a technical change to a matter of electoral administration, which does not have any material impact on the right of any person to participate in free elections.

Draft clauses

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*Electoral administration***1 Timing of parish and community council elections in England and Wales**

- (1) Amend the Representation of the People Act 1985 as follows.
- (2) Omit section 16 (postponement of parish and community council elections in England and Wales).
- (3) In section 29(5) (provisions which do not extend to Northern Ireland), for “16 to 18” substitute “17 and 18”.
- (4) In section 40(1) of the Representation of the People Act 1983 (effect of bank holidays etc on timing of elections), omit “or section 16 of the Representation of the People Act 1985”.

*Final provisions***2 Extent**

An amendment or repeal made by this Act has the same extent as the enactment (or part of an enactment) amended or repealed.

3 Commencement

- (1) This Act comes into force on such day as the Minister may by order made by statutory instrument appoint.
- (2) An order under subsection (1) may –
 - (a) appoint different days for different purposes;
 - (b) make transitional, transitory or saving provision.
- (3) In this section “the Minister” means the Lord President of the Council or the Secretary of State.



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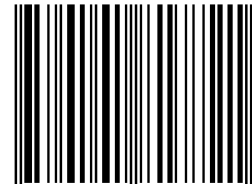
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