

These notes refer to the European Parliamentary and Local Elections (Pilots) Act 2004 (c.2) which received Royal Assent on 1 April 2004

EUROPEAN PARLIAMENTARY AND LOCAL ELECTIONS (PILOTS) ACT 2004

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the European Parliamentary and Local Elections (Pilots) Act 2004. They have been prepared by the Department for Constitutional Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. These notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY

3. This Act extends to England and Wales. It does not extend to Northern Ireland or Scotland.
4. The purpose of this Act is to provide for the piloting of all-postal voting in certain regions at the 2004 European Parliamentary and combined local elections.

BACKGROUND

5. Ordinary local government elections, originally due to take place in May 2004, have been moved, by virtue of an order made under the Local Government Act 2003, to the same date as the European Parliamentary general election to be held in June 2004. This means that these local government elections and European elections are automatically combined.
6. Under section 10 of the Representation of the People Act 2000, local authorities in England and Wales are able to submit a proposal to the Secretary of State to run pilot schemes of innovative electoral procedures at local government elections. Section 10 was couched in broad terms to cover various innovative voting methods, and pilot schemes have been held both for all-postal and “multi-channelled” voting (which includes electronic voting). Pilots are part of a programme working towards a multi-channelled, e-enabled general election some time after 2006.
7. Prior to the Act to which these notes refer, there was no legislative provision for the piloting of all-postal voting (or any other innovative voting method) in relation to European Parliamentary elections. The Act fills that gap, for the 2004 elections only, so that piloting of all-postal polling can take place.

TERRITORIAL APPLICATION: WALES

8. Although the Act applies to Wales, Wales has not been chosen as one of the four pilot regions.

COMMENTARY ON SECTIONS

Section 1: Piloting conduct at European and local elections

9. Sections 1(1) and (2) provide that European Parliamentary elections and any combined local elections in the regions specified in section 1(3) are to be run as all-postal pilots and on the terms set out in a pilot order made by the Secretary of State. The pilot regions are the North East, East Midlands, Yorkshire & the Humber and North West electoral regions.
10. Subsections (4) and (5) provide that postal votes must be returned along with a 'declaration of identity' carrying the signature of the elector along with the signature, name and address of a witness.
11. Subsection (6) provides that secrecy warnings will be included on the declaration of identity.

Section 2: Pilot order

12. This section makes provision about the terms of any pilot order made under section 1(1), in particular that it may provide for conduct of elections which differs from existing election rules.
13. Subsections (4), (5), (6) and (7) provide that the pilot order will contain provision to require returning officers to provide polling progress information to certain persons prior to the close of poll. Polling progress information, sometimes called a marked register, is information as to which electors have returned an envelope purporting to contain a completed ballot paper.
14. Subsections (10) and (11) provide that a pilot order can only be made following consultation with the Electoral Commission.
15. A pilot order is not subject to parliamentary procedure.

Section 3: Pilot schemes under the 2004 Act

16. This section disapplies section 10 of the Representation of the People Act 2000, under which local authorities can apply to use innovative voting methods in local government elections, for any local government election held on the same day as the European Parliamentary general election of 2004.

Section 4: Electoral Commission report

17. This section provides that the Electoral Commission must report on each pilot election held under this Act, and for this purpose must consult with the council for every county or district in the region where a pilot election was held. The councils are required to assist the Commission in fulfilling this function. The aspects of the pilot election on which the Commission must report are specified in section 4(6)-(10). The report must be published within 3 months from the date of declaration of the result of the election, and the Commission's duty to report on the administration of the election under section 5 of the Political Parties, Elections and Referendums Act 2000 remains unaffected.

Section 5: Revision of procedures in light of report

18. This section ensures that section 11 of the Representation of the People Act 2000, which enables measures piloted under section 10 to be applied generally on a permanent basis to local government elections in England and Wales, amending legislation by means of an order subject to affirmative resolution, may have effect in relation to measures piloted under this Act. So in the future, measures used in these elections may be rolled out to apply to future local government elections.

Section 6: Personation: arrestable offence

19. This section extends the powers of arrest for the offence of personation (when someone votes as someone else without their consent). The existing power of arrest is restricted to arrest in relation to personation at polling stations, and this provision reflects a recommendation by the Electoral Commission that the police be given the power of arrest at any location. This will only apply to regions where piloting is taking place under the Act and is limited to the 2004 European Parliamentary and combined local government elections.

Section 7: Time limit for prosecution of offences

20. This section provides that the magistrates courts are given a power to allow, on application from the police or a prosecutor, an extension of time up to a maximum of 24 months after the date of the offence for a prosecution to be commenced. The application must not be granted unless the court is satisfied that there are exceptional circumstances requiring the application to be granted, and that the investigation of the offence has been pursued with all reasonable diligence. Existing legislation provides that the prosecution for any offence under the Representation of the People Act is to be commenced within one year after the offence was committed. This new provision again reflects a recommendation by the Electoral Commission. It will apply only to regions where piloting is taking place under the Act and solely to the 2004 European Parliamentary and combined local government elections.

Section 8: By-elections

21. This section gives effect to the Schedule. Provisions in the Schedule prevent Parliamentary by-elections from taking place on the same day as the European elections in June 2004. Provisions also prevent mayoral referendums and elections, from taking place on either the day of the European elections or at any time within three weeks before or after that date
22. With respect to local government by-elections in England and Wales, the treatment is different as the Act provides that by-elections may be conducted as part of the pilot if the returning officers exercise their discretion to combine the by-elections with the European elections. If these elections are not combined, provision is made to ensure that local government by-elections are not held on the same day, or in the period four weeks before and three weeks after, the European Parliamentary election.
23. The provisions in the Schedule apply only to the four pilot regions.

COMMENCEMENT

24. The provisions of this Act came into force at Royal Assent.

HANSARD REFERENCES

25. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

| <i>Stage</i> | <i>Date</i> | <i>Hansard reference</i> |
|------------------------|---------------------------------|--------------------------------------|
| Introduction (Commons) | 17 th September 2003 | Vol. 410 Part No. 138 Col. 877 |
| Second Reading | 21 st October 2003 | Vol. 411 Part No. 144 Col. 510 - 615 |

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| <i>Stage</i> | <i>Date</i> | <i>Hansard reference</i> |
|------------------------|---|---|
| Standing Committee B | 28 th October 2003 – 4 th November 2004 (total 5 sittings) | Col. 1 - 184 |
| Report & Third Reading | 16 th December 2003 | Vol. 415 Part No. 12 Col. 1456-543 |
| Introduction (Lords) | 17 th December 2003 | Vol. 655 Part No.13 Col. 1156 |
| Second Reading | 8 th January 2003 | Vol. 656 Part No. 18 Col. 300-17,332-50 |
| Grand Committee Day 1 | 26 th January 2004 | Vol. 657 Part No. 28 Col. 1-66GC1 |
| Grand Committee Day 2 | 29 th January 2004 | Vol. 657 Part No. 31 Col. 179-222GC |
| Report Stage | 23 rd February 2004 | Vol. 658 Part No. 40 Col. 13-29,42-86 |
| Third Reading | 1 st March 2004 | Vol. 658 Part No. 44 Col. 443-6 |
| CCLA | 8 th March 2004 | Vol. 418 Part No.51 Col. 1280-337 |
| LCCA | 16 th March 2004 | Vol. 659 Part No. 57 Col. 138-63 |
| CCLA 2 | 16 th March 2004 | Vol. 419 Part No. 57 Col. 265-91 |
| LCCA 2 | 18 th March 2004 | Vol. 659 Part No. 56 Col. 336-54 |
| CCLA 3 | 24 th March 2004 | Vol. 419 Part No. 62 Col. 954-75 |
| LCCA 3 | 25 th March 2004 | Vol. 659 Part No. 65 Col. 846-65 |
| CCLA 4 | 29 th March 2004 | Vol. 419 Part No. 65 Col. 1292-311 |
| LCCA 4 | 30 th March 2004 | Vol. 659 Part No. 63 Col. 1310 |

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| <i>Stage</i> | <i>Date</i> | <i>Hansard reference</i> |
|------------------------------------|-----------------------------|---|
| CCLA 5 | 30 th March 2004 | Vol. 419 Part No. 66 Col. 1562-6 |
| LCCA 5 | 1 st April 2004 | Vol. 659 Part No. 65 Col. 1439 - 1455 |
| Royal Assent – 1 April 2004 | | House of Lords Hansard Vol. 659 Col. 1518 |
| | | House of Commons Hansard Vol 419 Col 1793 |