



# Representation of the People Act 1983

## 1983 CHAPTER 2

### PART I

#### PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

##### *Conduct of local government elections in England and Wales*

#### **35 Returning officers: local elections in England and Wales.**

(1) In England <sup>F1</sup> . . . [<sup>F2</sup>every non-metropolitan county council] shall appoint an officer of the council to be the returning officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes <sup>F1</sup> . . . within the district.

[<sup>F3</sup>(1A) In Wales the council of every county or county borough shall appoint—

- (a) an officer of the council to be the returning officer for elections of councillors of the county or county borough; and
- (b) an officer of the council to be the returning officer for elections of councillors of communities within the county or county borough.]

<sup>F4</sup>(2) . . . . .

[<sup>F5</sup>(2A) Subsections (2B) and (2C) below have effect in relation to the Greater London Authority.

(2B) The returning officer at an election of a constituency member of the London Assembly shall be such a person, or a person of such a description, as may be designated by the Secretary of State in an order made by statutory instrument.

(2C) The returning officer—

- (a) at any election of the Mayor of London,
- (b) at the election of the London members of the London Assembly at an ordinary election, and

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- (c) for the purposes of section 11 of the 1999 Act (return of London members of the London Assembly otherwise than at an election), shall be the proper officer of the Greater London Authority.]
- (3) The returning officer at an election of London borough councillors shall be the proper officer of the borough.
- <sup>F6</sup>(3A) .....
- (4) The returning officer at any election mentioned in subsections (1) to (<sup>F7</sup> ) above may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (5) A local government election in England and Wales is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.
- <sup>F8</sup>(6) The council for any London borough shall place the services of its officers at the disposal of any person acting as the returning officer at an Authority election for an electoral area situated wholly or partly in the borough.]

#### Textual Amendments

- F1** Words in s. 35(1) repealed (20.3.1995) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 68(7), **Sch. 18**; S.I. 1995/546, art. 3, **Sch.** (with arts. 4-8)
- F2** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 16 para. 11**
- F3** S. 35(1A) inserted (20.3.1995 for specified purposes and otherwise 1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 68(7)**; S.I. 1995/546, art. 3, **Sch.** (with arts. 4-8); S.I. 1996/396, art. 4, **Sch. 2**
- F4** S. 35(2) repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**
- F5** S. 35(2A)-(2C) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 3(1)(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F6** S. 35(3A) inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 19(5)(6), **Sch. 9 para. 1(3)** and repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F7** Figure 3 now stands within brackets by virtue of Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 12 Pt. II para. 50**
- F8** S. 35(6) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 3(1)(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**

#### Modifications etc. (not altering text)

- C1** S. 35: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1 D6**
- C2** S. 35 applied (with modifications) (27.3.2007) by The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), **Sch. 2** Table 1
- C3** S. 35(2B) amended (16.2.2001) by 2000 c. 41, s. 7(2)(c), (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (subject to transitional provisions in Sch. 1 Pt. II)
- C4** S. 35(4) applied (with modifications) (E.) (2.4.2001) by S.I. 2001/1298, regs. 8(1), 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 35(4) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 35(4) applied (with modifications) (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6, **Sch. 2 Pt. 2**

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- S. 35(4) applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 para. 1 Table 1}
- C5** S. 35(4) applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C6** S. 35(4) applied (with modifications) (E.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), **reg. 1, Sch. 4 para. 1**
- C7** S. 35(4) applied (with modifications) (E.) (18.2.2012) by [The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012 \(S.I. 2012/444\)](#), **reg. 1, Sch. 4 para. 1** (with reg. 27)
- C8** S. 35(4) applied (with modifications) (3.8.2012) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), **regs. 1, 8, 12, 13, Sch. 4 Pt. 1**
- C9** S. 35(4) applied (with modifications) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), **reg. 17, Sch. 8 Table 1** (as inserted (E.W.) (6.4.2013) by [S.I. 2013/798](#), **regs. 1, 7, Sch. 3**)

### 36 Local elections in England and Wales.

- (1) Elections of councillors for local government areas in England and Wales shall be conducted in accordance with rules made by the Secretary of State.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act, subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.

[<sup>F9</sup>(2A) As regards the Greater London Authority—

- (a) Authority elections, and
- (b) the return of London members of the London Assembly otherwise than at an election,

shall be conducted in accordance with rules made under this subsection by the Secretary of State.

Rules made under this subsection need not comply with the requirements of subsection (2) above.

(2B) As regards lists of candidates submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members), the provision that may be made by rules under subsection (2A) above includes provision for or in connection with any of the following—

- (a) the inclusion, withdrawal, addition or removal of persons;
- (b) cases where a person included in such a list is or becomes, or seeks to become, an individual candidate to be a London member of the London Assembly.]

<sup>F10</sup>[<sup>F11</sup>(3) Where the polls at—

- (a) the ordinary election of district councillors for any district ward or an election to fill a casual vacancy occurring in the office of such a councillor, and
- (b) the ordinary election of parish <sup>F12</sup>. . . councillors for any parish <sup>F12</sup>. . . or an election to fill a casual vacancy occurring in the office of such a councillor,

are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.

[ Where the polls at—  
<sup>F11</sup>(3AB)

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- (a) the ordinary election of councillors for any electoral division of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and
  - (b) the ordinary election of community councillors for any community or an election to fill a casual vacancy occurring in the office of such a councillor,
- are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.]]

[<sup>F13</sup>(3AC) Where the polls at—

- (a) the ordinary election of councillors for any electoral division of a county in England in which there are no district councils or an election to fill a casual vacancy occurring in the office of such a councillor, and
- (b) the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor,

are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.]

(3A) For the purposes of this section electoral areas are related if they are coterminous or if one is situated within the other.

<sup>F14</sup>(3AA) . . . . .

(3B) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.

(3C) The Secretary of State may by regulations make such provision as he thinks fit in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.

(4) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area (that is, a county, [<sup>F15</sup>a county borough] . . . , a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.

<sup>F16</sup>(4A) . . . . .

[<sup>F17</sup>(4B) All expenditure properly incurred by a returning officer in relation to the holding of an Authority election shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the Greater London Authority, exceed that scale, be paid by the Greater London Authority.]

(5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish <sup>F18</sup>. . . councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the district in which the parish <sup>F18</sup>. . . is situated, exceed that scale, be paid by the district council, but any expenditure so incurred [<sup>F19</sup>shall, if the district council so require, be repaid to that council by the council of the parish <sup>F18</sup>. . . for which the election is held.]

<sup>F20</sup>[(5A) All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the county or county borough in which the community is situated (“the principal council”), exceed

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that scale, be paid by the principal council; and if the principal council so require, any expenditure so incurred shall be repaid to them by the community council.]

- (6) Before a poll is taken at an election of a councillor for any local government area in England and Wales the council of that area or, in the case of an election of a parish or community councillor, the council who appointed the returning officer shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.

[<sup>F21</sup>(6A) Subsection (6) above shall apply in relation to an Authority election as it applies in relation to an election of a councillor for any local government area in England and Wales, but taking the reference to the council of the area as a reference to the Greater London Authority.]

- (7) Rules made under this section shall be—
- (a) made by statutory instrument;
  - (b) subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F9** S. 36(2A)(2B) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 4(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F10** S. 36(3)(3A)(3B)(3C) substituted (E.W.S.) for s. 36(3) by Representation of the People Act 1985 (c. 50, SIF 42), **s. 17**.
- F11** S. 36(3AB) inserted (20.3.1995) by 1994 c. 19, s. 66(6), **Sch. 16 para. 68(8)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/546, art. 3, **Sch.**
- F12** Words in s. 36(3)(b) repealed (20.3.1995) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 68(8), **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/546, art. 3, **Sch.**
- F13** S. 36(3AC) inserted (18.3.1998) by 1997 c. 29, s. 33(1), **Sch. 3 para. 17**; S.I. 1998/694, **art. 2**
- F14** S. 36(3AA) inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 19(5)(6), **Sch. 9 para. 1(4)(a)** and repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F15** Words in s. 36(4) inserted (20.3.1995) by 1994 c. 19, s. 66(6), **Sch. 16 para. 68(9)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/546, art. 3, **Sch.**
- F16** S. 36(4A) inserted by Local Government Act 1985 (c. 51, SIF 81:1), ss. 19(5)(6), **Sch. 9 para. 1(4)(b)** and repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F17** S. 36(4B) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 4(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F18** Words in s. 36(5) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), **Sch. 16 para. 68(10)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F19** Words in s. 36(5) substituted (G.B.) by S.I. 1991/1730, art. 2(2), **Sch. 2 Pt. I**.
- F20** S. 36(5A) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 68(10)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F21** S. 36(6A) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 4(4)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**

#### Modifications etc. (not altering text)

- C10** S. 36 amended (16.2.2001) by 2000 c. 41, **s. 7(2)(d)** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (subject to transitional provisions in Sch. 1 Pt. II)
- C11** S. 36 applied (with modifications) (27.3.2007) by The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), **Sch. 2** Table 1
- C12** S. 36(4) modified (E.W.) by S.I. 1986/1081, **reg. 99(1)** (which S.I. was revoked (23.3.2004) by S.I. 2004/294, **reg. 3**)

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- C13** S. 36(4) excluded (5.7.1994) by 1972 c. 70, s. 37, **Sch. 5 para. 3(2)** (as substituted (5.7.1994) by 1994 c. 19, ss. 3, 66(2)(b), **Sch. 3** (with ss. 54(4)(7), 55(5), **Sch. 17** paras. 22(1), **23(2)**)  
S. 36(4) excluded (1.3.1995) by S.I. 1995/493, **arts. 1, 9(6)**  
S. 36(4) excluded (8.3.1995) by S.I. 1995/600, **arts. 1, 7(7)**  
S. 36(4) excluded (8.3.1995) by S.I. 1995/610, **arts. 1, 8(2)**
- C14** S. 36(4)(5A) modified (11.3.1999) by S.I. 1999/450, art. 14(7), **Sch. 4 Pt. I para. 3(1)(c)(4)** (which S.I. was revoked (1.3.2003) by S.I. 2003/284, **art. 1**)  
S. 36(4)(5A) modified (1.2.2007) by The National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236), arts. 1(1), 16(7), **Sch. 4 para. 3(1)(c)(4)(a)**
- C15** S. 36(4)(6) applied (with modifications) (E.) (2.4.2001) by S.I. 2001/1298, regs. 8(1), 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 36(4)(6) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 36(4)(6) applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C16** S. 36(4) modified (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), art. 15(7), **Sch. 4 para. 3(1)(c)(4)(a)** (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 36(4) modified (E.W.) (23.3.2004) by The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294), **reg. 6(1)(c)(4)**
- C17** S. 36(4)(6) applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C18** S. 36(4)(5) applied (with modifications) (16.2.2011) by Parliamentary Voting System and Constituencies Act 2011 (c. 1), s. 19(1), **Sch. 5 para. 6**
- C19** S. 36(4)(6) applied (with modifications) (E.) (9.2.2012) by The Local Authorities (Conduct of Referendums)(England) Regulations 2012 (S.I. 2012/323), **reg. 1**, **Sch. 4** para. 1
- C20** S. 36(4)(6) applied (with modifications) (E.) (18.2.2012) by The Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 (S.I. 2012/444), **reg. 1**, **Sch. 4 para. 1** (with **reg. 27**)
- C21** S. 36(4)(6) applied (with modifications) (E.) (3.8.2012) by The Neighbourhood Planning (Referendums) Regulations 2012 (S.I. 2012/2031), **regs. 1, 8, 12, 13**, **Sch. 4 Pt. 1**
- C22** S. 36(4)(6) applied (with modifications) by The Neighbourhood Planning (Referendums) Regulations 2012 (S.I. 2012/2031), **reg. 17**, **Sch. 8** Table 1 (as inserted (E.W.) (6.4.2013) by S.I. 2013/798, **regs. 1, 7**, **Sch. 3**)
- C23** S. 36(4B) excluded (14.12.1999) by 1999 c. 29, s. 18(8); S.I. 1999/3376, **art. 2**
- C24** S. 36(5) modified (E.W.) by S.I. 1986/1081, **reg. 99(1)** (which S.I. was revoked (23.3.2004) by S.I. 2004/294, **reg. 3**)  
S. 36(5) modified (E.W.) (23.3.2004) by The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294), **reg. 6(1)(c)(4)**
- C25** S. 36(5A) modified (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), art. 15(7), **Sch. 4 para. 3(1)(c)(4)(b)** (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 36(5A) modified (E.W.) (23.3.2004) by The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294), **reg. 6(1)(c)(4)**
- C26** S. 36(6) modified (E.W.) by S.I. 1986/1081, **reg. 99(1)(2)** (which S.I. was revoked (23.3.2004) by S.I. 2004/294, **reg. 3**)
- C27** S. 36(6) modified (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), art. 15(7), **Sch. 4 para. 3(2)** (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 36(6) modified (E.W.) (23.3.2004) by The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294), **reg. 6(1)(c)**

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- S. 36(6) modified (E.W.) (23.3.2004) by [The Representation of the People \(Combination of Polls\) \(England and Wales\) Regulations 2004 \(S.I. 2004/294\)](#), [reg. 6\(2\)](#)
- S. 36(6) modified (1.2.2007) by [The National Assembly for Wales \(Representation of the People\) Order 2007 \(S.I. 2007/236\)](#), arts. 1(1), 16(7), [Sch. 4 para. 3\(2\)](#)
- C28** S. 36(6) applied (with modifications) (16.2.2011) by [Parliamentary Voting System and Constituencies Act 2011 \(c. 1\)](#), s. 19(1), [Sch. 5 para. 6](#)
- C29** S. 36(6A) modified (E.W.) (23.3.2004) by [The Representation of the People \(Combination of Polls\) \(England and Wales\) Regulations 2004 \(S.I. 2004/294\)](#), [reg. 6\(1\)\(c\)](#)

### 37 Ordinary day of local elections in England <sup>F22</sup>...

[<sup>F23</sup>(1)] In every year the ordinary day of election of councillors is the same for all local government areas in England <sup>F24</sup>... and is—

- (a) the first Thursday in May;
- (b) such other day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding [<sup>F25</sup>the year (or, in the case of an order affecting more than one year, the first year)] in which the order is to take effect.

[<sup>F26</sup>(2)] As respects Authority elections, the power conferred by subsection (1)(b) above shall include power to make an order fixing a day other than the first Thursday in May as the day on which the poll is to be held at an ordinary election other than the first.]

[<sup>F27</sup>(2A)] Subsection (1) is subject to any order under [<sup>F28</sup>section 37A.]

[<sup>F29</sup>(3)] The power to make an order under this section is exercisable by statutory instrument.

#### Textual Amendments

- F22** Words in s. 37 heading omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 6\(16\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F23** S. 37 renumbered as s. 37(1) (14.12.1999) by [1999 c. 29](#), s. 17, [Sch. 3 para. 5\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3376](#), [art. 2](#)
- F24** Words in s. 37(1) omitted (1.4.2018) by virtue of [Wales Act 2017 \(c. 4\)](#), [ss. 6\(16\)\(a\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F25** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), [s. 18\(2\)](#)
- F26** S. 37(2) inserted (14.12.1999) by [1999 c. 29](#), s. 17, [Sch. 3 para. 5\(5\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3376](#), [art. 2](#)
- F27** S. 37(2A) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 60\(1\)](#), 245
- F28** Words in s. 37(2A) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), [ss. 6\(16\)\(b\)](#), 71(4) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179](#), [reg. 3\(b\)](#)
- F29** Words in s. 37 renumbered as s. 37(3) (14.12.1999) by [1999 c. 29](#), s. 17, [Sch. 3 para. 5\(4\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 1999/3376](#), [art. 2](#)

#### Modifications etc. (not altering text)

- C30** S. 37 excluded (6.2.2004) by [The Local Government \(Ordinary Day of Election\) \(Wales\) Order 2004 \(S.I. 2004/218\)](#), [art. 2\(1\)](#)
- S. 37 excluded (13.3.2004) by [The Local Elections \(Ordinary Day of Election 2004\) Order 2004 \(S.I. 2004/222\)](#), [art. 2\(1\)](#)

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### [<sup>F30</sup>37ZA Ordinary day of local elections in Wales

- (1) In every year the ordinary day of election of councillors is the same for all local government areas in Wales and, subject to section 37B, and unless subsection (2) applies, is—
  - (a) the first Thursday in May;
  - (b) such other day as may be fixed by the Welsh Ministers by order made not later than 1st February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect.
- (2) The ordinary day of election of councillors is not the day specified in or fixed under subsection (1) if that day is the day of the poll at an ordinary general election of members of the National Assembly for Wales.
- (3) Where under subsection (2) the ordinary day of election of councillors is not the day specified in or fixed under subsection (1), it is such other day as the Welsh Ministers may by order specify.
- (4) The power to make an order under subsection (1)(b) or (3) is exercisable by statutory instrument.
- (5) A statutory instrument containing an order under subsection (3) may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.]

#### Textual Amendments

**F30** S. 37ZA inserted (1.4.2018) by [Wales Act 2017 \(c. 4\), ss. 6\(17\), 71\(4\)](#) (with [Sch. 7 paras. 1, 6](#)); [S.I. 2017/1179, reg. 3\(b\)](#)

### [<sup>F31</sup>37A Power to change date of local elections to date of European Parliamentary general election: England

- (1) The Secretary of State may by order provide that in a year in which a European Parliamentary general election is to be held—
  - (a) the ordinary day of election of councillors for counties in England, districts and London boroughs,
  - (b) the ordinary day of election of councillors for parishes, and
  - (c) as respects Authority elections, the day on which the poll is to be held at an ordinary election,
 shall be changed so as to be the same as the date of the poll at the European Parliamentary general election.
- (2) An order under subsection (1) may make provision under all of paragraphs (a) to (c) or under one or more of those paragraphs.
- (3) An order under subsection (1) must relate to a single year and must be made at least six months before—
  - (a) the local election day in that year, or
  - (b) if earlier, the date of the poll at the European Parliamentary general election in that year.
- (4) For this purpose “the local election day” in a particular year is—



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- (a) the first Thursday in May, or
  - (b) if an order has been made under section 37(1)(b) (power to change date of council and Assembly elections) in relation to that year, the day specified in the order.
- (5) Before making an order under this section, the Secretary of State must consult—
- (a) the Electoral Commission, and
  - (b) such other persons as he considers appropriate.
- (6) An order under subsection (1) may make incidental, supplementary or consequential provision or savings.
- (7) Where the Welsh Ministers make an order under section 37B, the Secretary of State may by order make such consequential provision in relation to elections in England as he thinks fit.
- (8) The powers under subsections (6) and (7) include power to make—
- (a) different provision for different purposes;
  - (b) provision disapplying or modifying the application of an enactment or an instrument made under an enactment.
- (9) An order under this section must be made by statutory instrument.
- (10) A statutory instrument containing an order made under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

#### Textual Amendments

**F31** Ss. 37A, 37B inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 60\(2\)](#), 245

### **37B Power to change date of local elections to date of European Parliamentary general election: Wales**

- (1) The Welsh Ministers may by order provide that, in a year in which a European Parliamentary general election is to be held, the ordinary day of election of councillors for—
- (a) counties in Wales and county boroughs, and
  - (b) communities,
- shall be changed so as to be the same as the date of the poll at the European Parliamentary general election.

[ The Welsh Ministers may not make an order under this section if the date of the poll at <sup>F32</sup>(1A) the European Parliamentary general election is the same date as the poll at an ordinary general election of members of the National Assembly for Wales.]

- (2) An order under subsection (1) may make provision under paragraphs (a) and (b) or under one of those paragraphs.
- (3) An order under subsection (1) must relate to a single year and must be made at least six months before—
- (a) the local election day in that year, or

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- (b) if earlier, the date of the poll at the European Parliamentary general election in that year.
- (4) For this purpose “the local election day” in a particular year is—
  - (a) the first Thursday in May, or
  - (b) if an order has been made under section [F3337ZA(1)(b)] (power to change date of council and Assembly elections) in relation to that year, the day specified in the order.
- (5) Before making an order under this section, the Welsh Ministers must consult—
  - (a) the Electoral Commission, and
  - (b) such other persons as they consider appropriate.
- (6) An order under subsection (1) may make incidental, supplementary or consequential provision or savings.
- (7) Where the Secretary of State makes an order under section 37A, the Welsh Ministers may by order make such consequential provision in relation to elections in Wales as they think fit.
- (8) The powers under subsections (6) and (7) include power to make—
  - (a) different provision for different purposes;
  - (b) provision disapplying or modifying the application of an enactment or an instrument made under an enactment.
- (9) An order under this section must be made by statutory instrument.
- (10) A statutory instrument containing an order made under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.]

#### Textual Amendments

- F31** Ss. 37A, 37B inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 60(2)**, 245
- F32** S. 37B(1A) inserted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(19)**, 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)
- F33** Word in s. 37B(4)(b) substituted (1.4.2018) by [Wales Act 2017 \(c. 4\)](#), **ss. 6(20)**, 71(4) (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(b)

**F34** 38 .....

#### Textual Amendments

- F34** S. 38 repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), **ss. 24**, 28 Sch. 4 para. 7, Sch. 5

### 39 Local elections void etc. in England and Wales.

- (1) If in England and Wales at [F35a local government election, other than an election for the return of the London members of the London Assembly,]—

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- (a) the poll is countermanded or abandoned for any reason, or
- (b) no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held,

the returning officer <sup>F36</sup> . . . shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him.

That day shall be within the period of [<sup>F37</sup>35 days] (computed according to section 40 below) beginning with the day fixed as the day of election for the first mentioned election.

<sup>F38</sup>(1A) . . . . .

(2) If for any other reason an election to an office under the <sup>M1</sup>Local Government Act 1972 [<sup>F39</sup>or the 1999 Act] . . . , other than that of chairman of a parish or community council or parish meeting or parish or community councillor, is not held on the appointed day or within the appointed time, or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day appointed by the court.

(3) The High Court may order that the costs incurred by any person in connection with proceedings under subsection (2) above shall be paid by the local authority concerned.

(4) In a case not falling within subsection (1) above—

- (a) if any difficulty arises with respect to an election of parish or community councillors or of an individual parish or community councillor, or to the first meeting of a parish or community council after an ordinary election of parish or community councillors, or
- (b) if a parish or community council is not properly constituted because an election is not held or is defective or for any other reason,

the district council [<sup>F40</sup>or Welsh county or county borough council]—

- (i) may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and
- (ii) may, if it appears to them necessary, direct the holding of an election or meeting and fix the date for it.

(5) Where an election is ordered to be held under this section—

- (a) rules under section 36 above relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void;
- (b) no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election.

(6) An order made—

- (a) under this section may include such modifications of the provisions of—
  - (i) this Part of this Act (and the rules under section 36), and
  - (ii) the <sup>M2</sup>Local Government Act 1972 [<sup>F41</sup>or the 1999 Act] . . . ,

as appear to the High Court, or, as the case may be, the district council [<sup>F40</sup>or Welsh county or county borough council], necessary or expedient for carrying the order into effect;

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- (b) by a <sup>F42</sup> . . . council under subsection (4) above with respect to an election of parish or community councillors may modify the provisions of—
- (i) this Act (and the rules with respect to such elections under section 36); and
  - (ii) any other enactment relating to such elections.
- (7) In the case of a common parish council under which are grouped, by virtue of section 11(5) of the Local Government Act 1972 (grouping of parishes), parishes situated in different districts, references in subsections (4) and (6) above to the district council shall be construed as references to the council of the district in which there is the greater number of local government electors for the parishes in the group.
- <sup>F43</sup>(8) . . . . .
- (9) If a municipal election in a London borough is not held on the appointed day or within the appointed time or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from acting.

#### Textual Amendments

- F35** Words in s. 39(1) substituted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 6(1)(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F36** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**
- F37** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), **s. 19(2)**
- F38** S. 39(1A) inserted after s. 39(1) by Local Government Act 1985 (c. 51, SIF 81:1), s. 19(5)(6), **Sch. 9 para. 1(5)** and repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237, **Sch. 13 Pt. I**
- F39** Words in s. 39(2) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 6(1)(3)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F40** Words in s. 39(4)(6)(a) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 68(11)(a)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F41** Words in s. 39(6)(a)(ii) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 6(1)(4)** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**
- F42** Word in s. 39(6)(b) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), **Sch. 16 para. 68(11)(b)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F43** S. 39(8) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 8, **Sch. 5**

#### Modifications etc. (not altering text)

- C31** S. 39 applied (with modifications) (27.3.2007) by The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), **Sch. 2** Table 1 (as amended (6.4.2014) by S.I. 2014/370, **art. 6(3)**)
- C32** S. 39 excluded (E.W.) (25.3.2020) by Coronavirus Act 2020 (c. 7), **ss. 65(2)**, 87(1) (with s. 65(5))
- C33** S. 39 excluded (E.W.) (25.3.2020) by Coronavirus Act 2020 (c. 7), **ss. 59(2)**, 87(1) (with s. 59(5))
- C34** S. 39 excluded (E.W.) (7.4.2020) by The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 (S.I. 2020/395), regs. 1, 15(1)(2)(5)(6)
- C35** S. 39(1) restricted (E.W.S.) by Representation of the People Act 1985 (c. 50, SIF 42), **s. 21(2)(c)**  
S. 39(1) applied (with modifications) (29.2.2000) by S.I. 2000/208, rule 3(1), **Sch. 1 Pt. VII para. 51(2)**  
S. 39(1) applied (with modifications) (29.2.2000) by S.I. 2000/208, rule 3, **Sch. 4 para. 15**  
S. 39(1) applied (with modifications) (15.3.2000) by S.I. 2000/427, rule 3(1), **Sch. 1 para. 51** (which S.I. was revoked (14.1.2008) by S.I. 2007/3541, **rule 1(1)(2)(a)**)

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- S. 39(1) applied (with modifications) (15.3.2000) by S.I. 2000/427, rule 3, **Sch. 4 para. 15** (which S.I. was revoked (14.1.2008) by S.I. 2007/3541, **rule 1(1)(2)(a)**)
- S. 39(1) applied (with modifications) (1.3.2004) by S.I. 2002/427, **Sch. 8 rule 54** (as substituted by The Greater London Authority Elections (Amendment) Rules 2004 (S.I. 2004/227), rule 2(8), **Sch. 5**)
- S. 39(1) applied (with modifications) (14.1.2008) by The Greater London Authority Elections Rules 2007 (S.I. 2007/3541), **reg. 3(2)**, {Sch. 1 rule. 60(2)}
- S. 39(1) applied (with modifications) (14.1.2008) by The Greater London Authority Elections Rules 2007 (S.I. 2007/3541), **reg. 5(3)**, {Sch. 5 rule. 60(2)}
- C36** S. 39(1)(5) applied (29.2.2000) by S.I. 2000/208, rule 3(3), **Sch. 3 para. 56(1)**
- S. 39(1)(5) applied (E.W.) (1.3.2004) by S.I. 1986/2214, **Sch. 3 rule 49** (as substituted by The Local Elections (Principal Areas) (Amendment) (England and Wales) Rules 2004 (S.I. 2004/223), rule 2(7), **Sch.** (which S.I. was revoked (2.1.2007) by S.I. 2006/3304, rule1(4), **Sch. 1**))
- S. 39(1)(5) applied (29.2.2000) by S.I. 2000/208, rule 3(3), **Sch. 3 para. 56(1)**
- S. 39(1)(5) applied (E.W.) (1.3.2004) by S.I. 1986/2215, **Sch. 3 rule 49** (as substituted by The Local Elections (Parishes and Communities) (Amendment) (England and Wales) Rules 2004 (S.I. 2004/224), rule 2(7), **Sch.** (which S.I. was revoked (2.1.2007) by S.I. 2006/3305, rule1(4), **Sch. 1**))
- S. 39(1)(5) applied (with modifications) (1.3.2004) by S.I. 2002/427, **Sch. 10 rule 58** (as substituted by The Greater London Authority Elections (Amendment) Rules 2004 (S.I. 2004/227), rule 2(8), **Sch. 5** (which S.I. was revoked (14.1.2008) by S.I. 2007/3541, rule 1(1)(2)(d)))
- S. 39(1)(5) applied (E.W.) (2.1.2007 for specified purposes) by The Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304), rules 1(2), 3, **Sch. 2 para. 55(1)**
- S. 39(1)(5) applied (E.W.) (2.1.2007 for specified purposes) by The Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304), rules 1(2), 4, **Sch. 3 para. 55(1)**
- S. 39(1)(5) applied (E.W.) (2.1.2007 for specified purposes) by The Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305), rules 1(2), 3, **Sch. 2 para. 55(1)**
- S. 39(1)(5) applied (E.W.) (2.1.2007 for specified purposes) by The Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305), rules 1(2), 4, **Sch. 3 para. 55(1)**
- S. 39(1)(5) applied (E.W.S.) (27.3.2007) by The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), reg. 4, **Sch. 3 para. 60(1)**
- S. 39(1)(5) applied (E.W.S.) (27.3.2007) by The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), reg. 3(1), **Sch. 1 para. 60(1)**
- S. 39(1)(5) applied (14.1.2008) by The Greater London Authority Elections Rules 2007 (S.I. 2007/3541), reg. 5(5), **Sch. 7 rule 65(2)**
- S. 39(1)(5) applied (14.1.2008) by The Greater London Authority Elections Rules 2007 (S.I. 2007/3541), reg. 3(4), **Sch. 3 rule 65(2)**
- C37** S. 39(1)(5) applied (E.W.) (13.3.2004) by S.I. 2002/185, **Sch. 3 rule 54(1)** (as substituted by The Local Elections (Mayoral Elections) (England and Wales) Regulations 2004 (S.I. 2004/225), reg. 2(7), **Sch.**)
- C38** S. 39(4) modified (E.W.S.) by Representation of the People Act 1985 (c. 50, SIF 42), **s. 21(2)(b)**
- S. 39(4): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1 D10**
- C39** S. 39(7) applied (E.W.S.) by Representation of the People Act 1985 (c. 50, SIF 42), **s. 21(3)**

#### Marginal Citations

- M1** 1972 c. 70  
**M2** 1972 c. 70.

## 40 Timing as to local elections in England and Wales.

- (1) When the day on which anything is required to be done by section 37 or section 39 above <sup>F44</sup>... [<sup>F45</sup>or section 3 of the 1999 Act] is a [<sup>F46</sup>Saturday, Sunday, Christmas Eve, Christmas Day, <sup>F47</sup>. . . Good Friday, bank holiday] or a day appointed for public

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thanksgiving or mourning, the requirement shall be deemed to relate to the first day thereafter which is not one of the days specified above.

F48  
.....

- (2) Where under subsection (1) above the day of election is postponed, the day to which it is postponed shall be treated for the purposes of this Act [<sup>F49</sup>and the <sup>M3</sup>Local Government Act 1972][<sup>F50</sup>and (in the case of an Authority election) the 1999 Act] as the day of election.
- (3) In computing any period of time for the purpose of any rules under section 36 above or for the purposes of section 39 any day specified in subsection (1) shall be disregarded; but where between the giving of a notice of election and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning, the foregoing provision, so far as it relates to any such rules, shall not operate to invalidate any act which would have been valid apart from that provision.

This subsection, so far as it relates to any such rules, has effect subject to the provisions of those rules.

#### Textual Amendments

- F44** Words in s. 40(1) omitted (2.4.2013) by virtue of [Electoral Registration and Administration Act 2013](#) (c. 6), [ss. 15\(3\), 27\(1\)](#); S.I. 2013/702, art. 3(b)
- F45** Words in s. 40(1) inserted (14.12.1999) by 1999 c. 29, s. 17, [Sch. 3 para. 7\(1\)\(2\)](#) (with Sch. 12 para. 9(1)); S.I. 1999/3376, [art. 2](#)
- F46** Words substituted by [Representation of the People Act 1985](#) (c. 50, SIF 42), [s. 19\(1\)\(a\)](#)
- F47** Words in s. 40(1) repealed (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by [Electoral Administration Act 2006](#) (c. 22), [ss. 20, 74\(2\), 77](#), Sch. 1 para. 50, [Sch. 2](#); S.I. 2006/3412, [art. 3](#), Sch. 1 para. 14(g)(aa) (bb)(ii)(cc)(v) (subject to transitional provisions in art. 6, Sch. 2); S.I. 2008/1316, [arts. 2, 4](#)
- F48** Words repealed by [Representation of the People Act 1985](#) (c. 50, SIF 42), [ss. 19\(1\)\(b\), 28](#), Sch. 5
- F49** The words “and the Local Government Act 1972” now stand in the text by virtue of the [Education Reform Act 1988](#) (c. 40, SIF 41:1), [ss. 231\(7\), 235\(6\), 237](#), [Sch. 12 Pt. II para. 51](#)
- F50** Words in s. 40(2) inserted (14.12.1999) by 1999 c. 29, s. 17, [Sch. 3 para. 7\(1\)\(3\)](#) (with Sch. 12 para. 9(1)); S.I. 1999/3376, [art. 2](#)

#### Modifications etc. (not altering text)

- C40** S. 40 applied (with modifications) (27.3.2007) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) Regulations 2007](#) (S.I. 2007/1024), [Sch. 2](#) Table 1
- C41** S. 40(3) applied (E.W.S.) by [Representation of the People Act 1985](#) (c. 50, SIF 42), [s. 21\(3\)](#)

#### Marginal Citations

- M3** 1972 c. 70.

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