

*These notes refer to the Elections Act 2001 (c.7)  
which received Royal Assent on 10 April 2001*

# **ELECTIONS ACT 2001**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Elections Act 2001 which received Royal Assent on 10 April 2001. They have been prepared by the Home Office 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. The notes need to 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 section or part of a section does not seem to require any explanation or comment, none is given.

### **BACKGROUND**

3. This Act, as a consequence of the outbreak of foot and mouth disease, defers local government elections which would otherwise be held in the period 3 May 2001 - 6 June 2001 to 7 June 2001.
4. Under section 37 of the Representation of the People Act 1983 the normal date for election of councillors in Great Britain is the first Thursday in May, which in 2001 is Thursday 3 May. Similarly, the Electoral Law Act (Northern Ireland) 1962, as amended by Local Elections (Northern Ireland) Order 1985, provides that the normal date of election in Northern Ireland is the third Wednesday in May which in 2001 is Wednesday 16 May.
5. 34 English county councils and 11 unitary authorities were due for election on 3 May and 26 Northern Irish district councils were due for election on 16 May.
6. This Act provides that in both cases the elections are postponed to Thursday 7 June. The sitting councillors will remain in office until that date.
7. It also provides that in England and Wales no by-elections to fill casual vacancies will be held during the period of the deferral. Any by-elections that would otherwise have fallen to be held during that period will take place on 7 June.
8. The Act provides that valid nominations will remain valid until the new election day so candidates will not have to go to the trouble of filling out fresh nomination papers. However, candidates and parties have until 15 May to withdraw their nomination papers and have until 10 May to submit fresh ones.
9. The campaign period will inevitably be longer than would normally be the case and some candidates may have incurred wasted expenditure producing material giving the original election day. In recognition of this, the Act increases the amount that each candidate may spend at postponed elections by 50%.
10. The cost of administering local elections falls on the local authorities concerned. In respect of the elections that were due to have taken place in May, local authorities had already incurred expenditure and were obliged to go on incurring expenditure until this Act received Royal Assent. The Act accordingly gives the Secretary of State a

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power to set up a scheme to compensate local authorities and candidates for additional expenditure incurred as result of this Act.

11. The Act covers all local elections in England, Wales and Northern Ireland.
12. It does not cover Scottish local elections because responsibility for them is devolved to the Scottish parliament. No ordinary elections are due in Scotland on 3 May but there may be some by-elections.
13. The Act also does not cover elections to the Scottish Parliament and the Welsh Assembly. The legal requirement is to fill any constituency vacancies within three months. No seats were vacant when this Act received Royal Assent so it is unlikely that there would need to be any by-elections within the period of the postponement.
14. The Act does not cover elections to the Northern Ireland Assembly or the European Parliament. The electoral systems in operation for elections to these two institutions make by-elections most unlikely.
15. The Act takes the opportunity to bring Northern Ireland electoral provisions into line with those of the rest of the UK by providing that if a general election and local elections fall on the same day, the polls should be combined.
16. Section 15 of the Representation of the People Act 1985 requires that where two or more elections are to be held at the same time, they are to be taken together. However, this provision was not extended to Northern Ireland. Since 1999 there have been successful combined elections using two different voting methods in Scotland and Wales; there is no practical reason to prevent combined elections being held in Northern Ireland using first-past-the-post and PR(STV). To avoid the possible need for two separate polls on the same day, this Act makes the rules in Northern Ireland reflect those in the rest of the UK with respect to the combination of elections.

## **COMMENTARY ON SECTIONS**

### ***England and Wales***

#### ***Section 1: Postponement of local government elections in England and Wales.***

17. *Section 1* provides for local government elections in England and Wales to be postponed.
18. *Subsection (1)* provides that where the ordinary date of election would otherwise have been 3 May 2001, it is postponed to 7 June 2001. Section 203(1) of the Representation of the People Act 1983 defines “local government election”, and section 37(1) of that Act sets the ordinary day of election.
19. *Subsection (2)* provides that any by-elections to fill casual vacancies which would otherwise have been held in the period 3 May - 6 June 2001, will take place on 7 June 2001.
20. *Subsection (3)* provides that a person validly nominated as a candidate at an election which has been postponed need not be nominated again. This is to be the case even though the timetable for matters including nomination under rule 1 of the election rules will work by reference to the postponed election date. The election rules are contained in Schedule 2 to the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214).
21. *Subsection (4)* provides that in cases where a candidate has been declared elected because the number of nominations does not exceed the number of vacancies at the close of nominations for 3 May, (or after the last time for withdrawal of nominations) such a declaration will have no effect. However, the effect of subsection (5) is that if, after the last time for withdrawal of nominations for the election on 7 June, the election is still uncontested the person may be declared elected.

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22. *Subsection (6)* deals with councils' annual meetings. Schedule 12 to the Local Government Act 1972 provides that in years in which they have no ordinary elections councils are required to hold an annual meeting in March, April or May. This is extended to include June so that it can, if the council wishes, be held after any postponed by-elections to fill casual vacancies have been held.
23. *Subsection (7)* increases the election expenses limits of all candidates in the postponed elections (whenever they were nominated) by 50%.

### ***Northern Ireland***

#### ***Section 2: Postponement of local elections in Northern Ireland***

24. *Section 2* provides for local elections in Northern Ireland to be postponed from 16 May 2001 to 7 June 2001. (*Subsection (1)*).
25. *Subsection (2)* makes corresponding provision for Northern Ireland to that made for England and Wales by section 1(3). Northern Ireland local elections rules are contained in Schedule 1 to the Electoral Law Act (Northern Ireland) 1962.
26. *Subsection (3)* increases the election expenses limits of all candidates in the postponed elections (whenever they were nominated) by 50%.

#### ***Section 3: Combination of polls***

27. *Section 3* enables a combined poll to be held in Northern Ireland.
28. *Subsection (1)* extends section 15 of the Representation of the People Act 1985 to Northern Ireland. This requires that the polls of two or more elections which are held on the same day must be combined. That is to say, the voters shall be able to attend the same polling place and use the same polling station to cast their votes for two or more elections at the same time. This extension also ensures that the power specified in section 15(5) to make amendments to the Representation of the People Acts in relation to combined elections are applicable to Northern Ireland.
29. *Subsection (4)* extends the power in section 84 of the Northern Ireland Act 1998 to make provision by Order in Council to include the power to make provision with respect to polls at local elections when those elections are combined with the polls at other elections in Northern Ireland.

#### ***Section 4: Modification of election provisions***

30. The rules governing the conduct of parliamentary elections are set out in the parliamentary elections rules in Schedule 1 to the Representation of the People Act 1983. The rules governing the conduct of local elections in Northern Ireland are set out in the local elections rules in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962, as substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985. Changes to the existing rules in respect of combining parliamentary and local elections are set out in the Schedule to the Act. These are dealt with in detail below.

#### ***Section 5: Finance***

31. If there are combined elections in Northern Ireland on 7 June, the cost of the combined poll will under exceptional arrangements applied by subsection (1) come from the Consolidated Fund.
32. *Subsection (2)* overrides provision by which the costs of combination are split between the Consolidated Fund and the District Councils, as specified in section 15(4) of the Representation of the People Act 1985.

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33. *Subsection (3)* applies section 29(3) of the Representation of the People Act 1983 (which specifies that the returning officer's charges are paid from the Consolidated Fund) to combined elections on 7 June.
34. *Subsection (4)* applies the Parliamentary Elections (Returning Officer's Charges) (Northern Ireland) Order 1997 (S.I. 1997/774) to combined elections if they are held on 7 June.
35. *Subsection (5)* amends the Schedule to that Order so that the figures are raised by specified amounts if there is a combined election on 7 June for this one election, to take account of the extra work caused by combining the polls.

## **General**

### **Section 6: Compensation**

36. *Section 6* allows the Secretary of State to set up a scheme to compensate local authorities and candidates for any additional expenditure incurred as a result of this Act and to make payment accordingly. In the case of candidates of registered political parties compensation can be paid to the parties rather than the candidates.

### **Section 7: Consequential provision**

37. *Section 7* enables the Secretary of State, by means of a statutory instrument subject to the negative resolution procedure, to make such consequential, transitional or supplemental provision as he considers appropriate as a result of this Act or any provision under it.

## **Schedule**

### **Northern Ireland: Modification of Election Provisions**

38. The following paragraphs of the Schedule amend the parliamentary elections rules (as set out in Schedule 1 to the Representation of the People Act 1983) and the local elections rules (as set out in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962) in the event of a parliamentary election being combined with a local election. These amendments ensure that necessary measures are taken to differentiate between the two elections and that procedures allow for the combination of two polls.
39. The ballot papers for each election must be of a different colour to those used at another election being held at the same time. This includes the requirement that the colour of the ballot papers must be different to the colour of the tendered ballot papers (*paragraphs 2 and 15*).
40. The publication of notice of a combined election shall state that the poll for that election will be taken together with the poll for another election (*paragraph 3 and 16*). In the event of a combined election, the returning officer (i.e. the Chief Electoral Officer) may choose to issue just one poll card, rather than issuing separate poll cards for each election (*paragraphs 4 and 18*).
41. Information posters indicating the manner of voting at each election must be located prominently in the polling station and they must be colour-coded to relate to the appropriate ballot paper (*paragraphs 5 and 19*).
42. The statutory questions which may be put to confirm the identity of voters at the polling station are to be modified so that separate questions must be asked in respect of each election (*paragraphs 6 and 20*).
43. The presiding officer may use a single copy of the electoral register for both elections, rather than one for each; marking the register must be as usual for those who are given ballot papers for both elections, but if a voter takes only one ballot paper, the register is marked to indicate the election to which that ballot paper related (*paragraphs 7 and*

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21). Likewise, the list of people whose votes are marked by the presiding officer, the list of people with disabilities who are given assistance at the ballot box and the list of people who receive a tendered ballot paper must also be marked in a way which either indicates that the voter voted in both elections or denotes the one election in which the voter voted (*paragraphs 8-10 and 22-24*).

44. The presiding officer's tasks at the close of the poll (namely, drawing up the ballot paper accounts and packaging up the spoilt and unused ballot papers, tendered ballot papers and ballot paper counterfoils) are amended to indicate that each task has to be done separately in respect of each election (*paragraphs 11 and 25*).
45. The local election count must take place on the morning of the second day after the poll, excepting weekends and bank holidays, to give time for the parliamentary count to take place (*paragraph 26*). Before the start of the parliamentary count, the ballot boxes for both elections must be opened and any parliamentary ballot papers removed from the local election ballot boxes and any local election ballot papers removed from the parliamentary ballot boxes (*paragraphs 12 and 27*).
46. The rules governing the countermand or abandonment of the poll on the death of a candidate are modified so that they relate only to the relevant election at a combined poll. The death of a candidate in one election does not therefore affect the continuation of the other election. The rules governing the tasks of the returning officer in the event of the death of a candidate are also amended so that the one election may not be affected by the abandonment or countermand of the other (*paragraphs 13 and 28*).
47. New forms are also introduced for Declarations of Identity in the event of a combined poll. (*paragraphs 30(4) and 31*).
48. Part IV (*paragraphs 32-34*) specifies the powers by which the amendments contained in this Schedule may be replaced or modified.

## COMMENCEMENT

49. The Act came into effect on Royal Assent on 10 April 2001.

## HANSARD REFERENCES

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

<b>Stages</b>	<b>Date</b>	<b>Hansard reference</b>
<b>House of Commons</b>		
Introduction	3 April 2001	Vol 366, Col 184
Second Reading	4 April 2001	Vol 366, Cols 396-423
Committee		
Report and Third Reading	4 April 2001	Vol 366, Cols 424-441
<b>House of Lords</b>		
Introduction	5 April 2001	Vol 624, Col 914
Second Reading	5 April 2001	Vol 624, Cols 914-955
Committee	9 April 2001	Vol 624, Cols 995-1013, 1027-1056
Report	9 April 2001	Vol 624, Col 1056
Third Reading	9 April 2001	Vol 624, Col 1056

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<b>Royal Assent</b> -10 April 2001	House of Lords Hansard Vol 624, Col 1057
	House of Commons Hansard Vol 366, Col 848