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STATUTORY INSTRUMENTS

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**2008 No. 2867**

**The Local Government (Structural Changes)  
(Transitional Arrangements) (No.2) Regulations 2008**

**PART 3**

**TRANSITIONAL ARRANGEMENTS: ELECTORAL MATTERS**

**Interim acting and local returning officers and post-reorganisation registration officers**

**9.**—(1) Every council which, on the coming into force of these Regulations—

- (a) is both a preparing council and a county council, or
- (b) is a shadow council,

shall, not later than 30th November 2008, appoint one of their officers to discharge the duties referred to in paragraph (2).

(2) The duties are—

- (a) such duties in relation to elections to the European Parliament to be held in 2009 as fall to be discharged by the local returning officer in the area which is for the time being the local counting area within the meaning of regulation 2 of the European Parliamentary Elections Regulations 2004(1), and
- (b) such duties in relation to any parliamentary election(2) for which a writ is issued after 30th November 2008 for any constituency or part of a constituency coterminous with or situated in the council's area, as fall to be discharged by the acting returning officer(3).

(3) A person appointed under paragraph (1) is referred to in the following provisions of this regulation as an “electoral appointee”.

(4) If an electoral appointee dies or otherwise ceases to be the electoral appointee at any time after the date of his appointment and before the time at which the duties referred to in paragraph (1) have been fully discharged, the council shall immediately appoint another of its officers to discharge those duties or such of them as remain to be discharged.

(5) A person appointed under paragraph (4) is referred to in the following provisions of this regulation as a “substitute appointee”.

(6) If a substitute appointee dies or otherwise ceases to be the substitute appointee during the period referred to in paragraph (4), that paragraph shall apply as if, for “an electoral appointee” and “the electoral appointee”, there were substituted “a substitute appointee” and “the substitute appointee”.

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(1) *S.I. 2004/293. See also sections 37 and 37A of the Representation of the People Act 1983. See also S.I. 2008/2857, which amends the definition of “local counting area”.*

(2) Defined in Schedule 1 to the Interpretation Act 1978 (c.30).

(3) By virtue of section 28(2) of the 1983 Act, the excepted duties are those relating to the issue of the writ and, if the returning officer reserves to himself and undertakes to perform in person, those relating to the declaration of the result.

(7) Subsection (1) of section 28 of the 1983 Act (discharge of returning officer's functions in England and Wales) shall have effect as regards the period beginning on 1st December 2008 and ending on 1st April 2009 as if, after paragraph (aa)(4), there were inserted—

“(ab) in the case of a constituency or part of a constituency in England that is coterminous with or situated in an area for which, pursuant to an order under section 7 of the Local Government and Public Involvement in Health Act 2007, there is to be a single tier of local government, the person appointed in accordance with regulation 9(1) or (4) of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008;”.

(8) An electoral registration officer appointed by a predecessor council(5) under section 8 of the 1983 Act (registration officers) shall not discharge any duties of the returning officer(6) at an election of a description mentioned in paragraph (2), except those mentioned in section 28(2) of that Act.

(9) The person who, immediately before the reorganisation date, is the electoral appointee or substitute appointee of a preparing council (other than a district council) or a shadow council shall, on that date, be deemed to have been appointed the electoral registration officer for any constituency or part of a constituency that is coterminous with or situated in the area of the single tier council that succeeds that preparing council or shadow council.

(10) At any time before the reorganisation date, an electoral appointee or a substitute appointee may, after consultation with the persons mentioned in paragraph (11), take such steps as the electoral appointee or substitute appointee considers necessary to prepare for the exercise on and after that date of their functions as electoral registration officer.

(11) The persons are each person who is for the time being an electoral registration officer appointed by a council which, on the reorganisation date, will become a predecessor council in relation to the same single tier council that succeeds the preparing council or shadow council which appointed the electoral appointee or substitute appointee.

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(4) Paragraph (aa) was inserted by the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 68(4).

(5) The only predecessor councils that can make appointments under section 8 are district councils.

(6) As to the discharge of a returning officer's duties by a registration officer (as acting returning officer) see section 28(1)(b) of the 1983 Act.