

# **ELECTORAL REGISTRATION AND ADMINISTRATION ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2: Administration and Conduct of Elections etc**

##### ***Section 14: Extension of timetable for Parliamentary elections***

53. *Subsection (1)* amends the Fixed-term Parliaments Act 2011 to provide that Parliament shall be dissolved 25, rather than 17, working days before the next UK Parliamentary general election. This provision therefore has the effect of extending the electoral timetable to 25 days.
54. *Subsections (2) and (3)* amend the Parliamentary Elections Rules (Schedule 1 to the 1983 Act) to also extend the electoral timetable for UK Parliamentary by-elections. The Rules as amended by this provision will provide that polling day will take place between 17 and 19, rather than between 9 and 11, working days after the last day for delivery of nomination papers, thereby allowing an extended timetable which retains sufficient flexibility for the Returning Officer to set polling day on a Thursday, in keeping with convention.
55. *Subsection (4)* amends rule 30(3) of the Parliamentary Elections Rules to move the deadline for appointing polling and counting agents at UK Parliamentary elections from 2 to 5 days before polling day. This change is being made as a consequence of the extended Parliamentary electoral timetable and will bring the deadline for appointing these agents at UK Parliamentary elections into line with that at other elections.
56. *Subsection (5)* amends rules 61(9), 63(9) and 64(6) of the Parliamentary Elections Rules to extend the electoral timetable for polls which are re-run due to the death of a candidate. The rules as amended by this provision will state that the fresh poll will take place between 21 and 27, rather than between 15 and 19, working days after the day on which the election writ is taken to have been received.
57. *Subsection (6)* makes a consequential change.

##### ***Section 15: Timing of parish and community council elections in England and Wales***

58. 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. *Section 15* 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.

***Section 16: Alteration of electoral registers: pending elections***

59. *Section 16* amends the 1983 Act to add a new section 13AB which provides for there to be two interim publication dates where an election is pending on which notices of alteration to the electoral register must be published.
60. At present, section 13B of the 1983 Act provides that in addition to the monthly alterations to the electoral register published under section 13A, where an election is pending there is to be a further notice of alteration to the register published on the 5th or 6th day before the poll (the day being at the discretion of the registration officer). This ensures that there is a final update to the register which can be used for the poll.
61. However, there may be a significant period between the previous monthly notice of alteration and the final register. Postal ballots can only be sent to electors on the register, and cannot therefore be issued until an elector appears on the register or an alteration to it. Therefore even under a longer electoral timetable many voters could not be sent postal ballots until less than 5 days before the election. To help realise the full benefits of a longer timetable, *new section 13AB* therefore requires an additional notice of alteration to the register to be published on the final day for delivery of nominations (normally the 19th day before the poll). *Section 13AB* will also require a further notice of alteration between 19 and 6 days before the poll, the exact timing of which will be at the discretion of the registration officer. The additional notices of alteration will enable more postal ballot papers to be issued earlier.
62. *New section 13AB* is concerned with the alteration of registers pending certain elections in Great Britain. Where a registration officer is satisfied that an entry should be made in, or removed from, the register *new section 13AB* requires that on the interim publication date the registration officer must publish a notice specifying the appropriate alteration in the electoral register. The alterations would be those required as a result of the circumstances covered by *subsection (1)* of section 13AB. *Subsection (3)* states that the alteration takes effect from the beginning of the interim publication date.
63. *Subsections (4), (5) and (6)* of *new section 13AB* establish that there are two interim publication dates. The first interim publication date is the last day on which nomination papers may be delivered to the returning officer. The second interim publication date is to be determined by the registration officer but it must be in the period after the first interim publication date and before the appropriate publication date. The appropriate publication date is the date on which the final version of the register (to be used for the poll) is published. This appropriate publication date is defined in *subsection (5)* of section 13B of the 1983 Act, and is either the fifth or sixth day before the poll as determined by the registration officer.
64. *Subsection (7)* of section 13AB defines “relevant provision” which is referred to in subsection (1)(c). A notice of alteration need not be made on the first interim publication date where an alteration has already taken effect, or is due to take effect, under section 13A(2). A notice of alteration need not be made on the second interim publication date where one has already taken effect, or is due to take effect, under section 13A(2), or on the first interim publication date.
65. *Subsection (8)* provides that section 13AB applies to Parliamentary elections in England, Wales and Scotland; to elections to the European Parliament in England, Wales and Scotland; to elections to the Scottish Parliament; to elections to the National Assembly for Wales; to local government elections in England, Wales and Scotland; and to elections of police and crime commissioners in England and Wales. *Subsection (9)* applies the interpretation provisions at *subsections (5) and (6)* of section 13B of the 1983 Act to this section. Section 13B(5) defines in particular the appropriate publication

date (referred to in paragraph 63 above), and section 13B(6) applies section 119 of the 1983 Act for the purposes of the computation of time.

66. *Subsections (4) and (5)* make a number of consequential amendments to provisions in the 1983 Act which are necessary as a result of the new section 13AB.

### ***Section 17: Review of polling districts and places in Great Britain***

67. *Section 17* makes provision about the timing of reviews of polling districts and places by local authorities in Great Britain. At present, section 18C of the 1983 Act provides that every polling place and every polling district must be reviewed at least once every four years. In light of the provisions in the Fixed-term Parliaments Act 2011 that set Parliamentary terms to 5 year periods, and the new five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011, section 17 amends section 18C of the 1983 Act to provide that a local authority must carry out and complete a review of all the polling districts and places in its area within the period of 16 months beginning with 1 October 2013, and the period of 16 months beginning with 1 October of every fifth year after that. This is so as to bring the reviews into line with the new cycles of Parliamentary terms and UK Parliamentary boundary reviews.
68. The section does not prevent a local authority carrying out a review of some or all of the polling districts or polling places in its area at other times.

### ***Section 18: Inadequate performance of returning officers: reduction of charges***

69. *Section 18* inserts new section 29A into the Representation of the People Act 1983 after section 29 (payments by and to a returning officer). Section 29A allows for the Secretary of State, upon a recommendation by the Electoral Commission (“the Commission”), to withhold or reduce a returning officer’s fee for reasons of poor performance.
70. Under *subsection (2)* of new section 29A, the Commission may make a recommendation to the Secretary of State that the returning officer’s fee should be reduced or withheld where the Commission thinks the returning officer’s performance has been inadequate.
71. *Subsection (3)* of new section 29A sets out the factors to which the Commission must have regard when making a recommendation for a returning officer’s fee to be reduced, which include in particular any report on the administration of the election concerned (under section 5 of the Political Parties, Elections and Referendums Act 2000) (“PPERA”), or any assessment against the performance standards of the service provided by the returning officer in that election (under section 9B(4) (performance standards) of PERA).
72. *Subsection (4)* of new section 29A provides that the Secretary of State must determine the final amount which the returning officer is paid for his services at a UK Parliamentary election, having regard to any recommendation made.
73. *Section 29* has been prospectively amended to transfer certain powers in relation to returning officers’ charges to the Commission. *Subsection (3)* of section 18 amends those provisions to take account of new section 29A.

### ***Section 19: Voters waiting at polling station at close of poll***

74. *Section 19* allows voters queuing at a polling station, for the purpose of voting, at close of poll to be issued with ballot papers and vote despite the time of close of poll having passed. Further provision in connection with this change may be made under *section 27* on commencement (see paragraph 83).

***Section 20: Use of emblems on ballot papers***

75. *Section 20* makes provision about the use of emblems on ballot papers by candidates at UK Parliamentary elections. At present, while a candidate who is standing on behalf of a single party may choose to have a party emblem displayed on the ballot paper, there is no provision for a candidate who is standing on behalf of more than one party to use an emblem. *Section 20* therefore inserts new provisions in rule 19 of the Parliamentary Elections Rules to provide that a candidate standing on behalf of more than one party at a UK Parliamentary election may request that the ballot paper shall contain against the candidate's particulars a registered emblem of one of those parties. Equivalent changes have already been made to rules for conducting certain other types of election: see, for example, the [Local Elections \(Principal Areas\) \(England and Wales\) \(Amendment\) Rules 2011 \(SI 2011/563\)](#).

***Section 21: Community support officers***

76. *Section 21* amends rule 32 of the Parliamentary Elections Rules which deals with admission to polling stations. The amendment will allow Police Community Support Officers ("PCSOs") to enter polling stations as police constables can currently. It will also allow a PCSO to be admitted to vote at a polling station other than their own on the production and surrender of a "certificate of employment" signed by a prescribed police officer. *Section 21* also amends rule 31 which provides for the requirements of secrecy of the ballot (set out at section 66 of the 1983 Act) to be notified to those attending polling stations and counting venues during Parliamentary elections, with the effect that PCSOs, like police constables, will not need to be given such notification. These amendments apply to Parliamentary elections in England and Wales. In addition, this section amends paragraph 2(5) of Schedule 4 to the Representation of the People Act 2000 to enable PCSOs to vote at any polling station in the constituency or electoral area if they are prevented from voting at their own polling station by reason of their employment on the day of the poll for the purpose of the election. This amendment applies to Parliamentary and local government elections in England and Wales.

***Section 22: Notification of rejected postal vote***

77. *Section 22* amends Schedule 4 to the Representation of the People Act 2000 (which includes provisions for the conduct of absent voting in Great Britain) by inserting a power to specify in regulations the circumstances in which, following close of poll, an electoral registration officer must notify a person that their postal ballot paper had been rejected. It specifies that this power covers proxy voters and the electors on whose behalf they are voting, where the proxy chooses to vote by post. *Sub-paragraph (2)* of the new paragraph specifies that the duty only applies where a postal voting statement has been returned but has not been duly completed. *Sub-paragraph (3)* specifies that regulations made under the power may make provision about the information communicated to the elector, the time within which the notification must be given (after a poll) and the way in which the information is communicated. The power to make regulations applies to Parliamentary and local government elections in Great Britain.

***Section 23: Repeal of powers to establish co-ordinated on-line record of electors***

78. *Section 23* repeals Part 1 of the Electoral Administration Act 2006 and repeals consequential provisions related to it. These provided the legislative basis to establish a Co-ordinated Online Record of Electors. These provisions are no longer needed following the Government's announcement on 21 July 2011 that it would not be pursuing the Co-ordinated Online Record of Electors project.