

2001 No. 2544

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001

<i>Made</i> - - - -	<i>13th July 2001</i>
<i>Laid before Parliament</i>	<i>19th July 2001</i>
<i>Coming into force</i>	<i>9th August 2001</i>

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred upon him by sections 41 and 105 of the Local Government Act 2000(a), hereby makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2001 and shall come into force on 9th August 2001.

(2) These Regulations extend to England only and, accordingly, references in these Regulations to a local authority are references to a local authority in England(b).

(3) In these Regulations—

“the 2000 Act” means the Local Government Act 2000;

“different arrangements” has the same meaning as in section 30 (operation of different executive arrangements) of the 2000 Act;

“elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority’s area in accordance with the provisions made by or under Part II (arrangements with respect to executives etc.) of the 2000 Act;

“election”, except in regulation 7, does not include an election to fill a casual vacancy;

“existing arrangements” has the same meaning as in section 30 of the 2000 Act;

“further referendum” means a referendum held in pursuance of the order of an election court under paragraph (3) of regulation 21 (determination of referendum petitions, and subsequent procedures) of the Referendums Regulations;

“normal election date” means the date on which, but for a provision of regulation 4 of these Regulations, a second or subsequent election would have been held in accordance with regulation 3 or regulation 5, respectively;

(a) 2000 c.22. For the application of sections 41 and 105 to Wales, see section 106 of the Local Government Act 2000.

(b) See the definition of “local authority” in section 48(1) of the Local Government Act 2000.

“the ordinary day of election”, in relation to any year, means the day in that year on which, in accordance with section 37 of the Representation of the People Act 1983(a), councillors are elected for local government areas;

“referendum” means a referendum held under section 27 (referendum in case of proposals involving elected mayor) of the 2000 Act, or by virtue of regulations or an order made under any provision of Part II of that Act, other than a further referendum;

“referendum petition” has the same meaning as in the Referendums Regulations(b); and

“the Referendums Regulations” means the Local Authorities (Conduct of Referendums) (England) Regulations 2001(c).

First election of mayor

2.—(1) Subject to paragraphs (2) and (3), the first election for the return of an elected mayor of a local authority shall take place on—

- (a) the first Thursday in May; or
- (b) the third Thursday in October,

whichever first occurs after the end of the period of three months beginning with the date on which the authority hold a referendum the result of which is to approve proposals for executive arrangements which involve an elected mayor.

(2) Subject to paragraph (3), where—

- (a) an election court—
 - (i) dismisses a referendum petition(d); or
 - (ii) in accordance with section 145(1A)(b) of the Representation of the People Act 1983(e), reverses the result of a referendum; or
- (b) the High Court declines to grant leave for the presentation of a referendum petition on the ground mentioned in paragraph (1)(d) of regulation 19 (procedures for questioning a referendum) of the Referendums Regulations(f),

the election shall take place on—

- (aa) the first Thursday in May; or
- (bb) the third Thursday in October,

whichever first occurs after the end of the period of three months beginning with the date of the decision of the election court or, as the case may be, the High Court.

(3) Where no regulations under section 44 (power to make provision about elections) of the 2000 Act are in force on the day that falls two months before the day on which, but for this paragraph, an election would have been held in accordance with paragraph (1) or (2), the election shall take place on—

- (a) the first Thursday in May; or
- (b) the third Thursday in October,

whichever first occurs after the end of the period of three months beginning with the date on which regulations under that section come into force.

Second election of mayor

3.—(1) In the case of an authority to which paragraph (2) applies, the second election for the return of an elected mayor shall, subject to regulation 4, take place on the ordinary day of election in the year in which no ordinary election(g) of councillors of that authority is held which next

(a) 1983 c.2. Section 37 is amended by section 18(2) of the Representation of the People Act 1985 (c.50) and section 17 of, and paragraphs 1 and 5 of Schedule 3 to, the Greater London Authority Act 1999 (c.29).

(b) See regulation 19(1) of the Referendums Regulations.

(c) S.I. 2001/1298, to which there are amendments not relevant to these Regulations.

(d) See regulation 21 of the Referendums Regulations.

(e) Inserted by regulation 19(8)(c) of, and Schedule 6 to, the Referendums Regulations.

(f) See regulation 19(3) of the Referendums Regulations.

(g) As to ordinary elections of district councillors see section 7(2) and (8) of the Local Government Act 1972 (c.70).

occurs after the end of the period of 23 months beginning with the date on which the first election for the return of an elected mayor of that authority took place.

- (2) This paragraph applies to—
 - (a) councils of metropolitan districts; and
 - (b) councils of non-metropolitan districts^(a)—
 - (i) whose area is not comprised in the area of a county council; and
 - (ii) whose councillors are elected by thirds^(b).
- (3) In the case of an authority—
 - (a) to which paragraph (2) does not apply; and
 - (b) whose first elected mayor came into office in the month of May,

the second election for the return of an elected mayor shall, subject to paragraph (5) and regulation 4, take place on the ordinary day of election in such year, being not later than the fifth year after that in which the first election took place, as may be specified in or determined under the authority's executive arrangements.

- (4) In the case of an authority—
 - (a) to which paragraph (2) does not apply; and
 - (b) whose first elected mayor came into office in the month of October,

the second election for the return of an elected mayor shall take place, subject to paragraph (5) and regulation 4, on the ordinary day of election in such year, being not later than the sixth year after that in which the first election took place, as may be specified in or determined under the authority's executive arrangements.

(5) In the case of an authority to which paragraph (3) or (4) applies, a second election may not take place before the end of the period of 23 months beginning with the date on which the first election took place.

Elections after referendum to change executive arrangements

4.—(1) This regulation applies where the result of a referendum held by an authority whose existing arrangements involve an elected mayor is to approve proposals for different arrangements involving an elected mayor (“the referendum for change”).

(2) Where the referendum for change is held less than three months before the normal election date, the election subsequent to that referendum shall, subject to regulation 2(2), take place on the next third Thursday in October.

(3) Where the referendum for change is held more than three months before the normal election date, the election subsequent to that referendum shall, subject to paragraph (2) of regulation 2 and paragraph (4) of this regulation, take place on the normal election date.

- (4) Where—
 - (a) the referendum for change is held more than three months before the normal election date; and
 - (b) the elected mayor under the existing arrangements ceases to hold office more than three months before the normal election date,

the election subsequent to that referendum shall, subject to regulation 2(2), take place on—

- (i) the first Thursday in May; or
- (ii) the third Thursday in October,

whichever first occurs after the end of the period of three months beginning with the date on which the elected mayor ceases to hold office.

(a) See section 270(2) of the Local Government Act 1972.

(b) As to elections by thirds, see section 7 of the Local Government Act 1972.

Elections after the second election

5. Elections for the return of elected mayors, other than elections under regulation 2, 3 or 4, shall take place on the ordinary day of election in every fourth year commencing with the fourth year after that in which the second election takes place.

Term of office of elected mayor

6.—(1) An individual elected as mayor at the first election shall come into office on the fourth day after the election and, unless he resigns or otherwise ceases to hold office, shall hold office, subject to paragraphs (3) to (5), until the fourth day after the second election (when his successor comes into office).

(2) An individual elected as mayor at an election other than the first election shall come into office on the day that his predecessor retires and, unless he resigns or otherwise ceases to hold office, shall hold office, subject to paragraphs (3) to (5), until his successor comes into office.

(3) Where the result of a referendum held by an authority whose existing arrangements involve an elected mayor is to approve proposals for different arrangements involving an elected mayor, the elected mayor under the existing arrangements shall hold office until the fourth day after the day on which an individual is elected as the elected mayor under the different arrangements.

(4) Where the result of a referendum held by an authority whose existing arrangements involve an elected mayor is to approve proposals—

- (a) for different arrangements that do not involve an elected mayor; or
- (b) for alternative arrangements^(a),

the elected mayor under the existing arrangements shall hold office until the fourth day after the date on which, but for this paragraph, a second or subsequent election would have been held in accordance with regulation 3 or regulation 5, respectively.

(5) Where the majority of the votes cast in a further referendum are “no” votes, the elected mayor under the existing arrangements shall hold office until the day on which the authority implement their fall-back proposals in accordance with paragraph (6) of regulation 21 (determination of referendum petitions, and subsequent procedures) of the Referendums Regulations.

Filling of casual vacancies

7.—(1) Subject to paragraph (2), on a casual vacancy occurring in the office of elected mayor, an election to fill the vacancy shall be held—

- (a) in a case in which the High Court or the local authority have declared the office to be vacant, within 35 days (computed in accordance with paragraph (3)) from the date of the declaration;
- (b) in any other case, within 35 days (so computed) after notice in writing of the vacancy has been given to the proper officer of the authority by two local government electors for the area.

(2) A casual vacancy in the office of elected mayor—

- (a) shall not be filled if the authority are then to adopt different arrangements (whether or not they involve an elected mayor) or alternative arrangements;
- (b) if it occurs within six months before the day on which the elected mayor would have retired, shall be filled at the election on the day determined by reference to the applicable provision of regulation 3 or, as the case may be, regulation 5.

(3) The day of election under paragraph (1) shall be fixed by the returning officer; and in computing a period for the purpose of that paragraph—

(a) See sections 32(1) and 48(1) of the Local Government Act 2000.

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971^(a) in England; and
- (c) any day appointed as a day of public thanksgiving or mourning,

shall be disregarded.

(4) Where, between the giving of a notice of the poll and the completion of the poll, a day is declared to be a bank holiday or day of public thanksgiving or mourning, paragraph (3) shall not operate to invalidate any act which would have been valid apart from that paragraph.

Filling of casual vacancies: supplementary

8.—(1) For the purpose of filling a casual vacancy in the office of elected mayor, the date on which the vacancy is to be taken to have occurred shall be—

- (a) in the case of non-acceptance of office, on the expiration of the period appointed under section 83 (declaration of acceptance of office) of the Local Government Act 1972^(b) for the delivery of the declaration;
- (b) in the case of resignation, on the receipt of the notice of resignation by the person to whom the notice is required to be delivered^(c);
- (c) in the case of death, on the date of death;
- (d) in the case of a disqualification under Part III of the Local Government Finance Act 1982 or by virtue of a conviction, on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant order or decision under that Part of that Act or (as the case may be) that conviction or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
- (e) in the case of his election being declared void on an election petition, on the date of the report or certificate of the election court;
- (f) in the case of a disqualification under section 79 (decisions of case tribunals) of the 2000 Act, on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant decision under that section or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
- (g) in the case of his ceasing to be qualified to be a member of a local authority, or becoming disqualified, for any reason other than one mentioned in sub-paragraphs (a) to (f), or ceasing to be a member of a local authority by reason of failure to attend meetings, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be.

(2) Public notice of a casual vacancy in the office of elected mayor shall be given by the local authority in which the office exists; and the steps to be taken to give public notice in accordance with section 232 (public notices) of the Local Government Act 1972 shall be taken—

- (a) in a case where the local authority declare the office to be vacant, immediately after the declaration;
- (b) in any other case, as soon as practicable after the date on which, by virtue of paragraph (1) of this regulation, the vacancy is treated as occurring.

^(a) 1971 c.80.

^(b) 1972 c.70. Section 83(1) is amended by the Local Government Act 2000, Schedule 3, paragraph 9.

^(c) See section 84 of the Local Government Act 1972. Subsection (1) is amended by the Local Government Act 2000, Schedule 3, paragraph 10.

Term of office of persons filling casual vacancies

9. A person elected to fill a casual vacancy in the office of elected mayor shall hold office until the date on which the person in whose place he is elected would have retired (in accordance with regulation 6), and he shall then retire.

Signed by authority of the Secretary of State for Transport,
Local Government and the Regions

13th July 2001

Alan Whitehead
Parliamentary Under Secretary of State,
Department for Transport,
Local Government and the Regions

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under the Local Government Act 2000 (“the 2000 Act”) a local authority may, or may be required to, hold a referendum as to whether their functions should be discharged in accordance with arrangements that involve an elected mayor. Where the result of such a referendum is to approve proposals for such arrangements, an election for the return of an elected mayor is required. These Regulations provide for the timing of the first and second elections for the return of elected mayors of local authorities, for the term of office of the individuals elected, for the intervals between subsequent mayoral elections, for the filling of casual vacancies and for related matters.

Subject to two exceptions, once a referendum proposal involving an elected mayor has been approved, and three months have elapsed after the date on which the referendum was held, the authority must hold the first mayoral election on the next first Thursday in May or, if sooner, the next third Thursday in October (regulation 2(1)).

The first exception arises (regulation 2(2)) where an election court either dismisses a referendum petition, challenging the referendum, or reverses the result of a referendum; or where the High Court refuses to allow a referendum petition to be presented. In that case, the timing of the first mayoral election is linked to the date of the court’s decision.

The second exception arises (regulation 2(3)) where regulations under section 44 of the 2000 Act making provision for mayoral elections are not in force on the day that falls two months before the day on which the referendum would otherwise have been held. In that case, the timing of the first mayoral election is linked to the coming into force of those regulations.

The second mayoral election may not be held within 23 months of the first mayoral election and must take place on the ordinary day of election of councillors of local government areas (normally the first Thursday in May). The year in which the second election is to take place depends on the existing electoral arrangements in the authority’s area. The councils of metropolitan districts and the councils of those non-metropolitan districts which elect by thirds and for whose area there is no county council, must hold a second mayoral election in the next year (after the end of the 23 month period) in which there would not normally be local government elections in their area. Other councils must hold a second mayoral election (after the end of the 23 month period) on the ordinary day of election of councillors not later than either the fifth or sixth year after the first election, depending on the month in which that election took place (regulation 3).

Special provision is made where the result of a referendum held by an authority whose existing arrangements involve an elected mayor is to approve proposals for different arrangements involving an elected mayor (regulation 4).

Subsequent mayoral elections are to be held on the ordinary day of election of councillors at four-yearly intervals, starting four years after the second election (regulation 5).

The person elected at the first election is to come into office on the fourth day after the election and, unless he or she resigns or otherwise ceases to hold office, is to remain in office until the fourth day after the second election (regulation 6(1) and (2)). Special provision is made where the result of a referendum held by an authority whose existing arrangements involve an elected mayor is to approve proposals for different arrangements, whether or not they involve an elected mayor (regulation 6(3) and (4)). (In accordance with section 39(6) of the Local Government Act 2000, the term of office of other elected mayors is four years.)

Provision for the filling of casual vacancies in the office of elected mayor is made in regulation 7, to which regulation 8 is supplementary. Regulation 9 makes provision for the term of office of persons filling casual vacancies.

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