
STATUTORY INSTRUMENTS

2020 No. 395

The Local Government and Police and Crime Commissioner
(Coronavirus) (Postponement of Elections and
Referendums) (England and Wales) Regulations 2020

PART 2

Postponement of by-elections

By-elections of councillors of principal areas

5.—(1) The poll for the election of a councillor to fill a casual vacancy in the office of councillor for any principal area in England that, pursuant to section 89(1) of the 1972 Act (filling of casual vacancies in case of councillors), would otherwise be held, or have been held, on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

- (2) If a casual vacancy referred to in paragraph (1) relates to the office of a councillor who—
- (a) pursuant to section 7 of the 1972 Act (election of councillors), would regularly have retired on the fourth day after the ordinary day of election in 2021, or
 - (b) is to retire on that day pursuant to any of the relevant provisions,

the vacancy in the office of councillor is to be filled at the poll at the ordinary election in 2021 and a poll is not to be held to fill the casual vacancy.

(3) In so far as section 89(3) of the 1972 Act applies to a vacancy referred to in paragraph (1) during the relevant period, that section is to be read as if for the words from “unless” to “not held” there were substituted “and”.

(4) Paragraph (1) does not apply in relation to a poll for the election of a councillor that has been held, pursuant to section 89(1) of the 1972 Act, on a day during the antecedent period.

(5) In this regulation—

“principal area” has the same meaning as in section 270 of the 1972 Act (general provisions as to interpretation) and includes the area of the Council of the Isles of Scilly;

“the relevant provisions” means—

- (a) section 17 of the 1992 Act (implementation of recommendations by order)⁽¹⁾;
- (b) sections 7 (implementation of proposals by order), 10 (implementation of recommendations by order) and 32 (resolution for whole-council elections) of the 2007 Act;
- (c) section 59 of the 2009 Act (implementation of review recommendations); and
- (d) section 60(2) of the 2020 Act (postponement of elections due to be held on 7 May 2020).

(1) Section 17 was repealed by Part 3 of Schedule 7 to the Local Democracy, Economic Development and Construction Act 2009 (c. 20) but the effect of orders made under that section has been saved by section 146(2) of that Act.

By-elections of parish councillors

6.—(1) The poll for the election of a councillor to fill a casual vacancy in the office of parish councillor that, pursuant to rule 5(3) of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006(2) (filling of casual vacancies) (“the 2006 Rules”), would otherwise be held, or have been held, on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(2) If a casual vacancy referred to in paragraph (1) relates to the office of a councillor who—

- (a) pursuant to section 16 of the 1972 Act (parish councillors), would regularly have retired on the fourth day after the ordinary day of election in 2021, or
- (b) is to retire on that day pursuant to any of the relevant provisions,

the vacancy in the office of councillor is to be filled at the poll at the ordinary election in 2021 and a poll is not to be held to fill the casual vacancy.

(3) Paragraph (1) does not apply in relation to a poll for the election of a councillor that has been held, pursuant to rule 5(3) of the 2006 Rules, on a day during the antecedent period.

(4) In this regulation—

“the relevant provisions” means—

- (a) section 17 of the 1992 Act;
- (b) sections 7, 10 and 53 (power of council to alter years of ordinary elections of parish councillors) of the 2007 Act; and
- (c) section 60(2) of the 2020 Act.

By-elections of directly elected local authority mayors

7.—(1) The poll for an election to fill a casual vacancy in the office of an elected mayor that, pursuant to regulation 9(1) of the 2012 Regulations (filling of casual vacancies), would otherwise be held on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(2) If a vacancy referred to in paragraph (1) relates to the office of an elected mayor for which—

- (a) pursuant to regulation 7 of the 2012 Regulations (elections after the second election), an election would have been held on the ordinary day of election in 2021; or
- (b) pursuant to section 60 of the 2020 Act, an election is to be held on that day,

the vacancy is to be filled at the ordinary election on that day and a poll is not to be held to fill the casual vacancy.

(3) In this regulation—

“the 2012 Regulations” means the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2012(3);

“elected mayor” has the same meaning as in section 9H(1) of the 2000 Act (elected mayors, etc)(4).

By-elections of combined authority mayors

8.—(1) The poll for an election to fill a vacancy in the office of a combined authority mayor that, pursuant to regulation 3(2) of the 2017 Order (filling of vacancies in the office of elected mayor), would otherwise be held on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(2) [S.I. 2006/3305](#).

(3) [S.I. 2012/336](#).

(4) Section 9H was inserted by paragraph 1 of Part 1 to Schedule 2 to the Localism Act 2011 (c. 20).

(2) If a vacancy referred to in paragraph (1) relates to the office of a combined authority mayor for which—

- (a) pursuant to, or by virtue of, paragraph 2 of Schedule 5B to the 2009 Act (timing of elections)(5), an election would have been held on the ordinary day of election in 2021; or
- (b) pursuant to section 60 of the 2020 Act an election is to be held on the ordinary day of election in 2021,

the vacancy is to be filled at the ordinary election in 2021 and a poll is not to be held to fill the casual vacancy.

(3) In this regulation—

“the 2017 Order” means the Combined Authorities (Mayors) (Filling of Vacancies) Order 2017(6);

“combined authority mayor” means a mayor in relation to whose office an order has been made under section 107A(1) of the 2009 Act (power to provide for election of mayor)(7).

By-elections to the Greater London Authority

9.—(1) The poll for an election to fill a vacancy in the office of an Assembly member of the Greater London Authority returned for an Assembly constituency that, pursuant to section 10 of the 1999 Act (filling a vacancy in an Assembly constituency), would otherwise be held on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(2) The poll for an election to fill a vacancy in the office of Mayor of London that, pursuant to section 16 of the 1999 Act (filling a vacancy), would otherwise be held on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(3) If a vacancy referred to in paragraphs (1) or (2) relates to an office for which, pursuant to section 60 of the 2020 Act, an election is to be held on the ordinary day of election in 2021 the vacancy is to be filled at the ordinary election on that day and a poll is not to be held pursuant to sections 10 or 16 of the 1999 Act to fill the vacancy.

(4) In this regulation “the 1999 Act” means the Greater London Authority Act 1999(8).

Police and crime commissioner by-elections

10.—(1) The poll for an election to fill a vacancy in the office of police and crime commissioner for any police area in England and Wales(9) that, pursuant to section 51 of the 2011 Act (election to fill vacancy in office of commissioner), would otherwise be held on a day during the relevant period is to be held instead on the ordinary day of election in 2021.

(2) If a vacancy referred to in paragraph (1) relates to an office for which, pursuant to section 51 of the 2011 Act or section 60 of the 2020 Act, an election is to be held on the ordinary day of election in 2021 the vacancy is to be filled at the ordinary election on that day and a poll is not to be held pursuant to section 51 of the 2011 Act to fill the vacancy.

(3) If, on 24th March 2020, a vacancy existed in the office of police and crime commissioner for any police area, that vacancy is to remain unfilled until the ordinary day of election in 2021 and is to be filled at the election on that day.

(5) Schedule 5B was inserted by Schedule 1 to the Cities and Local Government Devolution Act 2016 (c.1).

(6) S.I. 2017/69.

(7) Section 107A was inserted by section 2(1) of the Cities and Local Government Devolution Act 2016 (c. 1).

(8) 1999 c. 29.

(9) Section 1 of the Police Act 1996 (c. 16) makes provision for England and Wales to be divided into police areas.

(4) In this regulation “the 2011 Act” means the Police Reform and Social Responsibility Act 2011⁽¹⁰⁾.