

EXPLANATORY MEMORANDUM TO
THE GREATER LONDON AUTHORITY ELECTIONS (AMENDMENT) RULES
2022

2022 No. 1111

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 The Elections Act 2022 changes the voting system for the Mayor of London from the supplementary vote system to the simple majority vote system. These Rules amend provisions in the Greater London Authority Elections Rules 2007, setting out the rules and forms governing the conduct of such elections to bring them into line with the changes to the primary legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The London mayoralty was established as the executive of the Greater London Authority via the Greater London Authority Act 1999 (“the 1999 Act”), along with the London Assembly, a directly-elected body tasked with scrutinising the work of the Mayor. The first elections took place in 2000. The voting systems to be used at Authority elections are set out in section 4 and Schedule 2 to the 1999 Act. Originally under the 1999 Act, elections for the Mayor of London were to be conducted using the simple majority vote system where there were two candidates and the supplementary vote system where there were three or more candidates.
- 6.2 Section 13 of the Elections Act 2022 (“the 2022 Act”) amends the 1999 Act to change the voting system used to elect the Mayor of London to the simple majority vote system regardless of the number of candidates. The voting systems used for the election of Assembly members are not changed. The 2022 Act also changes the voting

system to be used in elections for combined authority mayors and local authority mayors in England and Police and Crime Commissioners (PCCs) in England and Wales.

- 6.3 The provisions governing the conduct of elections for the Mayor of London are set out in the Greater London Authority Elections Rules 2007 (S.I. 2007/3541; “the 2007 Rules”). The 2007 Rules also provide for the conduct of elections for member of the London Assembly. Schedule 3 contains the Rules for a Mayoral election held alone or with Assembly elections only and Schedule 7 contains the Rules for a Mayoral election held in combination with another type of poll such as a General Election. Modifications in Schedules 4 and 8 respectively apply if an electronic counting system is not used at those elections. Schedule 10 contains the forms to be used at Authority elections.
- 6.4 These Rules amend the 2007 Rules in relation to the voting system to be used at elections for the Mayor of London which are contested by three or more candidates to ensure consistency with the changes made to the 1999 Act by the 2022 Act. Amendments are made to Schedules 3, 4, 7 and 8, and principally involve removal of references to first and second preference votes and counts thereof, and of the distinction between elections contested by two candidates and by three or more candidates. Amendments are also made to the ballot paper, postal voting statements and notices for guidance of voters in Schedule 10. Similar changes to the secondary legislation setting out the rules for the conduct of elections for combined authority mayors, local authority mayors and PCCs will be brought forward in parallel with these Rules.

7. Policy background

What is being done and why?

- 7.1 The Mayor of London was the first directly-elected mayor in England and leads the Executive of the Greater London Authority. The Mayor exercises a wide range of powers including strategic planning, transport planning, highways and passenger transport, and police and fire, and is scrutinised by an elected Assembly comprising 25 Assembly Members. Mayoral and Assembly elections take place together every four years.
- 7.2 Elections for the Mayor of London are conducted using the supplementary vote system where there are more than two candidates. Under this system voters have a first and second preference vote. If a candidate receives more than 50 per cent of the first preference votes they are elected. If no candidate reaches a majority at the first stage all but the two candidates with the most votes are eliminated and the second preference votes of the eliminated candidates are allocated to the remaining candidates. The candidate with the most (first preference plus second preference) votes is elected. Under the simple majority vote system, the candidate who wins the most votes is elected. Under both voting systems, if the top candidates are tied after the count is completed, the Greater London Returning Officer decides who is returned by lots.
- 7.3 The Government believes that the simple majority vote system is a more straightforward way of electing representatives than the supplementary vote system and that it is well-understood by voters. Simple majority voting, which is also known as “first past the post”, is used to elect MPs and local councillors in England and also

applies in PCC and other mayoral elections where there are only two candidates. Conservative Party Manifestos have included commitments supporting “first past the post” in 2015, 2017 and 2019. Moving to this system for the Mayor of London makes it easier for the public to express a clear preference: the person elected is the one directly receiving the most votes. This reduces complexity for both the voter and electoral administrator.

- 7.4 In March 2021, the Home Secretary announced¹ the Government’s intention to bring forward legislation to change the voting system for all combined authority mayors, the Mayor of London and PCCs to first past the post when Parliamentary time allowed as one element of Part One of the Home Office’s Review into the role of PCCs. In September 2021 the Minister for the Constitution and Devolution announced² that the Government would include the proposed legislation in the Elections Bill and confirmed that the change of voting system would, for consistency, also apply to elections for local authority mayors.
- 7.5 The provisions making changes to the voting system are in section 13 of the 2022 Act. These Rules amend the 2007 Rules setting out how elections for the Mayor of London are to be conducted to ensure the elections rules and forms (e.g. ballot paper) are consistent with the recently-amended primary legislation.
- 7.6 The changes to the voting system for the Mayor of London set out in the 2022 Act, and the changes to the Rules for the conduct of those elections, will apply to any election or by-election taking place on or after the ordinary day of election in 2023, which will be 4 May. The next scheduled election for the Mayor of London is in 2024.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 The Rules amend the Greater London Authority Elections Rules 2007. As the amendments are limited in scope and self-contained, we do not consider that consolidation of the 2007 Rules is necessary.

10. Consultation outcome

- 10.1 A statutory consultation on a draft of the Rules was undertaken with the Electoral Commission between 4 July – 1 August 2022 as required under section 7(1) and (2)(d) of the Political Parties, Elections and Referendums Act 2000. The Electoral Commission raised several minor queries about the Rules which we have addressed, including drafting points which are reflected in the final version of the Rules.
- 10.2 It was not considered appropriate to consult publicly as the Rules contain only essential technical changes to the processes and forms set out in secondary legislation which are necessary to ensure legislative consistency with changes to the voting system recently agreed by Parliament and set out in the amended 1999 Act.
- 10.3 As to the change to the voting system effected by the primary legislation, the Government explained during the passage of that legislation that it was committed in

¹ 16 March 2021 Written Ministerial Statement HCWS849: <https://questions-statements.parliament.uk/written-statements/detail/2021-03-16/hcws849>

² 15 September 2021 Written Ministerial Statement HCWS289: <https://questions-statements.parliament.uk/written-statements/detail/2021-09-15/hcws289>

its manifesto to supporting the first past the post system, which reflected the will of the British people in the 2011 referendum. The Government therefore undertook no consultation in advance of that legislation.

11. Guidance

- 11.1 The Electoral Commission publishes comprehensive guidance for electoral administrators on all aspects of running elections and will update this guidance³. The Rules being amended sets out the detailed process for the conduct of elections for the mayor of London and provide model forms.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is expected to be minimal, with a small-scale simplification for electoral administrators in the process for counting votes for the Mayor of London.
- 12.3 A full Impact Assessment has not been prepared for this instrument because of the minimal impact anticipated. An Impact Assessment of the change to the voting system for PCCs and mayors is published on the Parliament website⁴. It concludes that modest cost-savings are to be anticipated as venue hire and staff costs are reduced where a second count is no longer required. Cost data from 2016 PCC elections suggest around 5 per cent saving per vote counted which, when applied to projected PCC and mayoral elections over a 10 year period, yields a best estimated cost-saving of £7.3m in economic terms. Additional costs for staff and voter familiarisation are assumed to be negligible as the simple majority vote system should be familiar from other local elections and general elections. Non-monetised benefits identified are simplification within the voting system and potential reduction in spoiled ballots.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The Government keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration.

15. Contact

- 15.1 Gemma Penn at the Department for Levelling Up, Housing and Communities Telephone: 030 3444 3677 or email: gemma.penn@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Paul Rowsell, Deputy Director for Governance, Reform and Democracy at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Parliamentary Under Secretary of State for Housing and Communities

³ Guidance and resources for Returning Officers administering local government elections taking place in England, including combined authority mayoral elections <https://www.electoralcommission.org.uk/i-am-a/electoral-administrator/returning-officer/local-elections-england>

⁴ <https://bills.parliament.uk/bills/3020/publications>

15.4 Rt Hon Andrew Stephenson, Parliamentary Under Secretary of State for Housing and Communities, can confirm that this Explanatory Memorandum meets the required standard.