



Representation of the People Act 1983

1983 CHAPTER 2

PART I

PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

Conduct of local government elections in England and Wales

35 Returning officers: local elections in England and Wales

- (1) In England and Wales every county council shall appoint an officer of the council to be the returning officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes or communities within the district.
- (2) The returning officer at an election of a councillor of the Greater London Council shall be the proper officer of the borough which constitutes or includes the electoral area for which the election is held or, in the case of the electoral area which includes the City, the Inner Temple and the Middle Temple, the proper officer of the City of Westminster.
- (3) The returning officer at an election of London borough councillors shall be the proper officer of the borough.
- (4) The returning officer at any election mentioned in subsections (1) to (3) above may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (5) A local government election in England and Wales is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

Status: This is the original version (as it was originally enacted).

36 Local elections in England and Wales

- (1) Elections of councillors for local government areas in England and Wales shall be conducted in accordance with rules made by the Secretary of State.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act, subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (3) When the following ordinary elections fall to be held in the same year—
 - (a) the ordinary election of district councillors for any district ward, and
 - (b) the ordinary election of parish or community councillors for any parish or community, or any parish or community ward, which is coterminous with or situated in that district ward,the polls at those elections shall be taken together and one-half of the cost of taking the combined polls shall be treated as attributable to the holding of each election.
- (4) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area (that is, a county, Greater London, a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.
- (5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish or community councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the district in which the parish or the community is situated, exceed that scale, be paid by the district council, but any expenditure so incurred shall be chargeable only on the parish or community for which the election is held.
- (6) Before a poll is taken at an election of a councillor for any local government area in England and Wales the council of that area or, in the case of an election of a parish or community councillor, the council who appointed the returning officer shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.
- (7) Rules made under this section shall be—
 - (a) made by statutory instrument;
 - (b) subject to annulment in pursuance of a resolution of either House of Parliament.

37 Ordinary day of local elections in England and Wales

In every year the ordinary day of election of councillors is the same for all local government areas in England and Wales and is—

- (a) the first Thursday in May ;
- (b) such other day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding the first year in which the order is to take effect.

The power to make an order under this section is exercisable by statutory instrument.

38 Nominations and candidate's death in local election in England and Wales

- (1) At local government elections in England and Wales—
 - (a) the nomination paper shall give for each person subscribing it his electoral number (that is, his number as an elector for the electoral area); and
 - (b) a telegram (or any similar means of communication) consenting to a nomination shall be admissible instead of the candidate's written consent.
- (2) If at a contested local government election in England and Wales proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot papers has died, then the returning officer—
 - (a) shall countermand the poll, or
 - (b) if polling has begun, shall direct that the poll be abandoned,and the provisions of section 39(5) below shall apply.

39 Local elections void etc. in England and Wales

- (1) If in England and Wales at an election of a councillor for a local government area—
 - (a) the poll is countermanded or abandoned for any reason, or
 - (b) no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held,the returning officer (or, in the case of an election of a councillor of the Greater London Council, the proper officer of the Council) shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him.

That day shall be within the period of 42 days (computed according to section 40 below) beginning with the day fixed as the day of election for the first-mentioned election.
- (2) If for any other reason an election to an office under the Local Government Act 1972, other than that of chairman of a parish or community council or parish meeting or parish or community councillor, is not held on the appointed day or within the appointed time, or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day appointed by the court.
- (3) The High Court may order that the costs incurred by any person in connection with proceedings under subsection (2) above shall be paid by the local authority concerned.
- (4) In a case not falling within subsection (1) above—
 - (a) if any difficulty arises with respect to an election of parish or community councillors or of an individual parish or community councillor, or to the first meeting of a parish or community council after an ordinary election of parish or community councillors, or
 - (b) if a parish or community council is not properly constituted because an election is not held or is defective or for any other reason,the district council—
 - (i) may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and

Status: This is the original version (as it was originally enacted).

- (ii) may, if it appears to them necessary, direct the holding of an election or meeting and fix the date for it.
- (5) Where an election is ordered to be held under this section—
- (a) rules under section 36 above relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void;
 - (b) no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election.
- (6) An order made—
- (a) under this section may include such modifications of the provisions of—
 - (i) this Part of this Act (and the rules under section 36), and
 - (ii) the Local Government Act 1972,
 as appear to the High Court, or, as the case may be, the district council, necessary or expedient for carrying the order into effect;
 - (b) by a district council under subsection (4) above with respect to an election of parish or community councillors may modify the provisions of—
 - (i) this Act (and the rules with respect to such elections under section 36); and
 - (ii) any other enactment relating to such elections.
- (7) In the case of a common parish council under which are grouped, by virtue of section 11(5) of the Local Government Act 1972 (grouping of parishes), parishes situated in different districts, references in subsections (4) and (6) above to the district council shall be construed as references to the council of the district in which there is the greater number of local government electors for the parishes in the group.
- (8) Two copies of every order made by a district council under this section shall be sent to the Secretary of State.
- (9) If a municipal election in a London borough is not held on the appointed day or within the appointed time or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from acting.

40 Timing as to local elections in England and Wales

- (1) When the day on which anything is required to be done by section 37 or section 39 above is a Sunday, day of the Christmas break, of the Easter break or of a bank holiday break or a day appointed for public thanksgiving or mourning, the requirement shall be deemed to relate to the first day thereafter which is not one of the days specified above.

In this subsection—

"bank holiday break" means any bank holiday not included in the Christmas break or the Easter break and the period beginning with the last week day before that bank holiday and ending with the next week day which is not a bank holiday ;

" Christmas break " means the period beginning with the last day before Christmas Day and ending with the first week day after Christmas Day which is not a bank holiday;

Status: This is the original version (as it was originally enacted).

"Easter break" means the period beginning with the Thursday before and ending with the Tuesday after Easter day.

- (2) Where under subsection (1) above the day of election is postponed, the day to which it is postponed shall be treated for the purposes of this Act and the Local Government Act 1972 as the day of election.
- (3) In computing any period of time for the purpose of any rules under section 36 above or for the purposes of section 39 any day specified in subsection (1) shall be disregarded; but where between the giving of a notice of election and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning, the foregoing provision, so far as it relates to any such rules, shall not operate to invalidate any act which would have been valid apart from that provision.

This subsection, so far as it relates to any such rules, has effect subject to the provisions of those rules.