

These notes refer to the Local Government and Public Involvement in Health Act 2007 (c.28) which received Royal Assent on 30 October 2007

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Electoral Arrangements

Introduction

112. [Part 2](#) of the Act enables district councils in England in some circumstances to change their scheme for elections where they wish to do so.
113. It requires the Electoral Commission and Boundary Committee in exercising their functions under section 13 of the Local Government Act 1992 to consider whether the number of councillors in a ward of a council which is subject to a scheme for partial-council elections is appropriate. It allows the Boundary Committee to obtain information from local authorities in connection with the discharge of its functions.
114. It also allows a principal council operating whole council elections to make a request to the Electoral Commission in connection with the provision of single-member electoral areas. It allows local authorities to change the names of their electoral areas. It removes the requirement for the number of councillors in a metropolitan district ward to be divisible by 3. Finally, the Secretary of State is given power to make an order that ensures local government elections take place on the same day as European parliamentary general elections in those years where the two elections are scheduled to take place.

Chapter 1: Power of District Councils in England to Change Electoral Scheme

Introductory

Section 31: Schemes for elections

115. [Section 31](#) sets out the schemes for elections that a district council may resolve to be subject to.

Power of district councils to change to whole-council elections

Section 32: Resolution for whole-council elections

116. This section enables a district council that is subject to a scheme for elections by halves or elections by thirds to resolve to be subject instead to a scheme for whole-council elections.

Section 33: Resolution for whole-council elections: requirements

117. [Section 33](#) sets out the requirements for passing a resolution for whole-council elections. The resolution can only be passed during a specified period. This period

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differs according to whether the council is a metropolitan district council or a non-metropolitan one. The resolution must be passed by a majority of at least two-thirds of members voting at a specially convened meeting of which notice of the object has been given. Section 33(7) enables the Secretary of State to extend the period during which the decision must be taken.

Section 34: Scheme for whole-council elections

118. This section is concerned with how a scheme for whole-council elections will operate. It requires ordinary elections to be held in particular years. For metropolitan district councils, these are 2010 and every four years after. For non-metropolitan district councils, the years are 2011 and every four years after. This follows the pattern that has been established for non-metropolitan district councils that are already subject to a scheme for whole-council elections. No metropolitan district councils are currently subject to whole council elections.

Sections 35 and 36: Publicity and Notice to the Electoral Commission

119. As soon as possible after the resolution to move to a scheme for whole-council elections has been passed, the council must publicise the fact that it has become subject to the new scheme and produce an explanatory document. It must also notify the Electoral Commission of the resolution.

Power of district councils to revert to partial-council elections

Section 37: Resolution for elections by halves

120. This section enables a non-metropolitan district council that is operating whole-council elections but has, at some point since 1 April 1974, previously operated elections by halves to resolve to return to elections by halves.

Section 38: Resolution for elections by halves: requirements

121. **Section 38** requires a resolution for elections by halves to be passed during a specified period. The resolution must be passed by a majority of at least two-thirds of members voting at a specially convened meeting of which notice of the object has been given. Section 38(7) enables the Secretary of State to extend the period during which the decision must be taken.

Section 39: Resolution for elections by thirds

122. This section enables a council that is operating whole-council elections but has, at some point since 1 April 1974, previously operated elections by thirds to resolve to return to elections by thirds.

Section 40: Resolutions for elections by thirds: requirements

123. **Section 40** requires a resolution for elections by thirds to be passed during a specified period. This period differs according to whether the council is a metropolitan district council or a non-metropolitan one. The resolution must be passed by a majority of at least two-thirds of members voting at a specially convened meeting of which notice of the object has been given. Section 40(7) enables the Secretary of State to extend the period during which the decision must be taken.

Sections 41 and 42: Publicity for resolution and Notice to Electoral Commission

124. These sections are similar to the provisions made as to publicity for a resolution and notice to the Electoral Commission in sections 35 and 36 but are concerned with cases in which a council has resolved to become subject to a scheme for partial-council elections.

Section 43: Electoral Commission to consider whether electoral review is necessary

125. **Section 43** places a duty on the Electoral Commission to consider whether or not an electoral review is necessary where a council has resolved to become subject to a scheme for partial-council elections. The Electoral Commission may decide a review is necessary where the number of councillors per ward is not the appropriate number of councillors as set out in section 13(5) of the Local Government Act 1992, which is amended by section 56 of this Act. If they decide that a review is necessary they can direct the Boundary Committee to conduct a review using their existing powers under section 13(3) of the Local Government Act 1992.

Section 44: Electoral Commission to make order for new electoral scheme

126. This section requires the Electoral Commission to make an order setting out details of what a council's resolution to move to elections by halves or by thirds will mean in practice. Where the council is moving to elections by halves the order is called an "order for elections by halves". Where the council is moving to elections by thirds the order is called an "order for elections by thirds". *Subsection (2)* ensures that, if the council's resolution has triggered an electoral review by the Boundary Committee, the Electoral Commission's order does not pre-empt the Committee's recommendations.

Section 45: Order for elections by halves: years in which elections are to be held

127. **Section 45** requires an order for elections by halves to secure that elections are held in the years determined in accordance with the section. The first ordinary elections under the new scheme will be whole-council elections (see section 46(2)) which must be held in a relevant year; that year being 2011 and every fourth year afterwards. Subsequent ordinary elections must be held in a year for elections by halves, that year being 2012 and every second year afterwards. This follows the pattern that has been established for non-metropolitan district councils that are already subject to a scheme for elections by halves.

Section 46: Order for elections by halves: councillors to be elected at ordinary elections

128. This section makes further provision about the detail that must be included in an order for elections by halves. In particular, it sets out what the order must say about when each of the councillors is to be elected, and when he or she is to retire. It provides (in *subsection (2)*) that the first ordinary elections under the new regime must be whole-council elections.

Section 47: Order for elections by thirds: years in which elections are to be held

129. **Section 47** requires an order for elections by thirds to secure that elections are held in the years specified in that section. The first ordinary elections under the new scheme will be whole-council elections which must be held in a relevant year; that year being, in relation to a metropolitan district council, 2014 and every fourth year afterwards and, in relation to a non-metropolitan district council, 2011 and every fourth year afterwards. Subsequent ordinary elections will be held in each subsequent year, unless it is a fallow year; a fallow year being 2013 and every fourth year afterwards. This follows the pattern that has been established for metropolitan district councils and non-metropolitan district councils respectively that are already subject to a scheme for elections by thirds.

Section 48: Order for elections by thirds: councillors to be elected at ordinary elections

130. This section makes further provision about the detail that must be included in an order for elections by thirds. In particular, it sets out what the order must say about when each of the councillors is to be elected, and when he or she is to retire. It provides (in

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subsection (2)) that the first ordinary elections under the new regime must be whole-council elections.

Section 49: Order for elections by halves or elections by thirds: transitional provision

131. Section 49 allows the Electoral Commission to include in an order for partial-council elections provision about the transition to the council's new scheme, including provision for some councillors to retire at times different from those otherwise applying and for identifying which of them are so to retire.

Section 50: Powers of Electoral Commission to make incidental etc provision

132. This section allows the Electoral Commission to make incidental, consequential, transitional or supplemental provision in connection with any order for partial-council elections.

Section 51: Position if Electoral Commission act under existing powers

133. This section is concerned with a case in which the Electoral Commission has directed the Boundary Committee to conduct a review (see section 43(2)) and in response to that request the Boundary Committee make recommendations for electoral changes. It ensures that the Electoral Commission is not required by the Act to include anything in the order for elections by halves or for elections by thirds that they deal with in an order made under existing powers in section 17 of the Local Government Act 1992.

Section 52: Publicity for order by Electoral Commission

134. As soon as possible after the Electoral Commission has made an partial-council elections order, the council must, in a manner it sees fit, publicise the fact that it is now subject to a new electoral scheme and produce an explanatory document.

Power of district councils to alter years of ordinary elections of parish councillors

Section 53: Power of council to alter years of ordinary elections of parish councillors

135. Section 53 gives a council which has passed a resolution to change its scheme for elections, a power to make provision by order to change the ordinary year of elections of parish councillors. The power is given to enable a council to ensure that a person voting for a parish councillor will be able to vote, at the same time, for a district councillor.

Amendment of existing provisions about schemes for ordinary elections

Section 54: Amendment of existing provisions about schemes for ordinary elections

136. This section repeals sections 7(4) to (6) of the Local Government Act 1972. Those provisions allow a non-metropolitan district council to request that the Secretary of State change its scheme for elections by order.
137. As a consequence of the repeal, section 54 contains saving provision. This is to ensure that the repeal does not apply to any request made under section 7(4) until the Secretary of State has either decided not to make an order giving effect to that request or has made such an order.
138. Section 54 also repeals the powers of the Secretary of State to provide by order a scheme for partial-council elections for a principal council in England under section 86 of the Local Government Act 2000 and, in relation to London borough councils only, under section 8(2) of the 1972 Act.

139. *Subsection (6)* preserves any orders made under the repealed provisions and they are therefore unaffected by the repeal.

Chapter 2: Miscellaneous

Requests for single-member electoral areas in England

Section 55: Requests for single-member electoral areas

140. This section provides for principal councils that hold whole-council elections, to request that the Electoral Commission directs the Boundary Committee for England to conduct an electoral review of their area with the aim of introducing single-member electoral areas. If the Electoral Commission decides not to direct a review the section requires the Electoral Commission to provide local authorities with reasons for this decision. *Subsection (6)* ensures that the Boundary Committee are not obliged to respond to a request by recommending that all wards become single-member wards if, having regard to the factors listed in section 13(5)(a) to (c) of the 1992 Act, they consider it would be inappropriate to do so.

Electoral Commission and Boundary Committee: reviews and recommendations

Section 56: Electoral Commission and Boundary Committee: reviews and recommendations

141. This section amends section 13 of the Local Government Act 1992. It changes the matters which the Electoral Commission or the Boundary Committee will have regard to when conducting electoral reviews. The amendment will apply, not only to a case in which a council moves back to partial-council elections following a resolution passed by the council under this Chapter, but also to any case in which a council is operating partial-council elections.
142. Where the Boundary Committee conducts a review of such an authority it will need to balance the desirability of recommending an ‘appropriate’ number of councillors against those other matters within section 13(5) of the 1992 Act. The appropriate number of councillors will be a number of members divisible by two where there are elections by halves; and a number of members divisible by three where there are elections by thirds. However, the Boundary Committee will continue to have the flexibility to recommend a different number of councillors per ward if it considers this best reflects those other matters within section 13(5).

Section 57: Procedure in connection with reviews

143. *Section 57* amends section 13 of the Local Government Act 1992. It inserts a new subsection into section 13 which allows the Boundary Committee to request any additional information from an authority that it may require in relation to a review of electoral arrangements. The authority must provide the information if requested to do so by such date as the Boundary Committee may specify.
144. *Section 57* also amends section 15 of the Local Government Act 1992. It modernises the procedure which the Boundary Committee follows when conducting electoral reviews. Section 15A of the 1992 Act is also repealed.

Electoral areas in England

Section 58: Metropolitan districts: councillors per ward

145. This section removes the requirement in the Local Government Act 1972 that the number of councillors returned for a ward in a metropolitan district be divisible by three. Instead, the number of councillors returned for such a ward can be whatever is provided by order by either the Electoral Commission following an electoral review or

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the Secretary of State when implementing a structural or boundary change under Part 1 of this Act. This will bring metropolitan district councils into line with all other types of council where there is no restriction on the number of councillors for a ward or division.

Section 59: Change of name of electoral area

146. This section enables a county council, a district council or a London borough council to change the name of an electoral division or district/London borough ward, as the case may be, in its area by passing a resolution at a special meeting held for the purpose. The resolution must be passed by a majority of at least two-thirds of members voting at a specially convened meeting, where notice of the object of the meeting has been given.
147. Prior to passing the resolution the council must take such steps as it considers appropriate to consult with persons who might be interested. Following a resolution being passed the council must then inform certain bodies, including the Electoral Commission, of the change. The Electoral Commission's power to amend the names of local authority electoral areas remains unaffected. It should be noted that if a change in the name of an electoral area is proposed within 5 years of a change made by the Electoral Commission, the local authority must first seek the approval of the Electoral Commission.

Election dates

Section 60: Power to change date of local elections to date of European Parliamentary general election

148. This section inserts new sections into the Representation of the People Act 1983 to enable the Secretary of State in England, and the Welsh Ministers in Wales, to combine local elections with European Parliamentary general elections in future years, when those elections fall in the same year.
149. New section 37A gives the Secretary of State the power to change local government and Greater London Authority election dates so that they are the same as the European Parliamentary general election date in a particular year. The power may be exercised in relation to one or more of the following types of election: (a) elections for county, district and London borough councils; (b) elections for parish councils; (c) Greater London Authority elections.
150. Before making an order using this power the Secretary of State must consult with the Electoral Commission, and any other persons or bodies he considers it appropriate to consult. An order cannot be made until a draft of the order has been approved by both Houses of Parliament. The order must be made six months in advance of the date of the local government or European parliamentary elections, whichever is the earliest.
151. New section 37B gives Welsh Ministers the same power to change local government election dates so that they are the same as the European Parliamentary general election date. The power may be exercised in relation to either or both of the following types of election: (a) elections for county and county borough councils; (b) elections for community councils.
152. Welsh Ministers must also consult with the Electoral Commission, and any other persons or bodies they consider it appropriate to consult. An order cannot be made until a draft of the order has been approved by the National Assembly for Wales. The order must also be made six months in advance of the date of the local government or European parliamentary elections, whichever is the earliest.

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Chapter 3: Consequential Amendments

Section 61: Consequential amendments

153. This section gives effect to Schedule 2, which contains amendments consequential on provision made in Part 2.