



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 2

ELECTORAL ARRANGEMENTS

CHAPTER 1

POWER OF DISTRICT COUNCILS IN ENGLAND TO CHANGE ELECTORAL SCHEME

Introductory

31 Schemes for elections

For the purposes of this Chapter—

- (a) a council is “subject to a scheme for whole-council elections” if all of its councillors are to be elected in each year in which it holds ordinary elections of councillors;
- (b) a council is “subject to a scheme for elections by halves” if one-half (or as nearly as may be) of its councillors are to be elected in each year in which it holds ordinary elections of councillors;
- (c) a council is “subject to a scheme for elections by thirds” if one-third (or as nearly as may be) of its councillors are to be elected in each year in which it holds ordinary elections of councillors.

Power of district councils to change to whole-council elections

32 Resolution for whole-council elections

- (1) A district council in England that is subject to a scheme for elections by halves or by thirds may resolve that it is to be subject instead to the scheme for whole-council elections under section 34.
- (2) A resolution under this section is referred to in this Chapter as a “resolution for whole-council elections”.

33 Resolution for whole-council elections: requirements

- (1) A council must comply with this section in passing a resolution for whole-council elections.
- (2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- (3) The resolution must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - (b) by a majority of at least two thirds of the members voting on it.
- (4) The council must pass the resolution in a permitted resolution period.
- (5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.
- (6) In this section “permitted resolution period” means—
 - (a) in relation to a metropolitan district council—
 - (i) the period ending with 31 December 2009, or
 - (ii) the period in 2013, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December;
 - (b) in relation to a non-metropolitan district council—
 - (i) the period ending with 31 December 2010, or
 - (ii) the period in 2014, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December.
- (7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

34 Scheme for whole-council elections

- (1) On passing a resolution for whole-council elections, a council becomes subject to the following electoral scheme.
- (2) Ordinary elections of the councillors of the council are to be held in—
 - (a) the election year which follows the end of the resolution period, and
 - (b) every election year afterwards.
- (3) All councillors are to be elected in each year in which ordinary elections are held.

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- (4) On the fourth day after ordinary elections are held—
 - (a) the councillors elected in those elections are to come into office, and
 - (b) the sitting councillors are to retire.
- (5) In this section—
 - “election year” means—
 - (a) in relation to a metropolitan district council: 2010 and every fourth year afterwards;
 - (b) in relation to a non-metropolitan district council: 2011 and every fourth year afterwards;
 - “resolution period” means the permitted resolution period in which the council passes a resolution for whole-council elections.
- (6) If the council passes a resolution for whole-council elections in a permitted resolution period which has been extended by an order under section 33(7), subsection (2)(a) has effect as if it referred to the election year in which that period ends.

35 Publicity

- (1) A council must comply with this section as soon as practicable after passing a resolution for whole-council elections.
- (2) The council must produce an explanatory document.
- (3) The council must make the explanatory document—
 - (a) available for public inspection at the council’s principal office at all reasonable times, and
 - (b) available to the public by such other means as the council thinks appropriate.
- (4) The council must publicise these matters—
 - (a) that the council has become subject to the scheme for whole-council elections under section 34;
 - (b) when elections will first take place in accordance with the scheme;
 - (c) how the explanatory document is available in accordance with subsection (3);
 - (d) the address of the council’s principal office.
- (5) It is for the council to decide how those matters are to be publicised.
- (6) An explanatory document is a document which sets out details of the new electoral scheme as it applies to the council.

36 Notice to Electoral Commission

- (1) A council must comply with this section as soon as practicable after passing a resolution for whole-council elections.
- (2) The council must give the Electoral Commission notice that it has passed the resolution.

Power of district councils to revert to partial-council elections

37 Resolution for elections by halves

- (1) A non-metropolitan district council in England that—
 - (a) was formerly subject to a scheme for elections by halves, but
 - (b) is for the time being subject to a scheme for whole-council elections,
 may resolve that it is to revert to being subject to a scheme for elections by halves.
- (2) For the purposes of this section, a council that is subject to a scheme for whole-council elections was “formerly subject” to a scheme for elections by halves if it was subject to such a scheme at any time in the period beginning with—
 - (a) 1 April 1974, or
 - (b) if later, the date on which the council was created.
- (3) A resolution under this section is referred to in this Chapter as a “resolution for elections by halves”.

38 Resolution for elections by halves: requirements

- (1) A council must comply with this section in passing a resolution for elections by halves.
- (2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- (3) The resolution must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - (b) by a majority of at least two thirds of the members voting on it.
- (4) The council must pass the resolution in a permitted resolution period.
- (5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.
- (6) In this section “permitted resolution period” means the period in 2008, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December.
- (7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

39 Resolution for elections by thirds

- (1) A district council in England that—
 - (a) was formerly subject to a scheme for elections by thirds, but
 - (b) is for the time being subject to a scheme for whole-council elections,
 may resolve that it is to revert to being subject to a scheme for elections by thirds.
- (2) For the purposes of this section, a council that is subject to a scheme for whole-council elections was “formerly subject” to a scheme for elections by thirds if it was subject to such a scheme at any time in the period beginning with—

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- (a) 1 April 1974, or
 - (b) if later, the date on which the council was created.
- (3) A resolution under this section is referred to in this Chapter as a “resolution for elections by thirds”.

40 Resolution for elections by thirds: requirements

- (1) A council must comply with this section in passing a resolution for elections by thirds.
- (2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- (3) The resolution must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - (b) by a majority of at least two thirds of the members voting on it.
- (4) The council must pass the resolution in a permitted resolution period.
- (5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.
- (6) In this section “permitted resolution period” means—
 - (a) in relation to a metropolitan district council: the period in 2011, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December;
 - (b) in relation to a non-metropolitan district council: the period in 2008, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December.
- (7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

41 Publicity for resolution

- (1) A council must comply with this section as soon as practicable after passing a resolution for elections by halves or a resolution for elections by thirds.
- (2) The council must produce an explanatory document.
- (3) The council must make the explanatory document—
 - (a) available for public inspection at the council’s principal office at all reasonable times, and
 - (b) available to the public by such other means as the council thinks appropriate.
- (4) The council must publicise these matters—
 - (a) that the council has resolved to become subject to the new electoral scheme;
 - (b) that the Electoral Commission is to make provision by order about the operation of, and transition to, the new electoral scheme;
 - (c) how the explanatory document is available in accordance with subsection (3);
 - (d) the address of the council’s principal office.

- (5) It is for the council to decide how these matters are to be publicised.
- (6) An explanatory document is a document which sets out details of the new electoral scheme (so far as the details are known at the time the document is prepared).

42 Notice to Electoral Commission

- (1) A council must comply with this section as soon as practicable after passing a resolution for elections by halves or a resolution for elections by thirds.
- (2) The council must give the Electoral Commission notice that it has passed the resolution.

43 Electoral Commission to consider whether electoral review is necessary

- (1) This section applies if the Electoral Commission receive notice under section 42 that a council has passed a resolution for elections by halves or a resolution for elections by thirds.
- (2) As soon as practicable after receiving the notice, the Commission must consider whether to exercise their power under section 13(3) of the Local Government Act 1992 (c. 19) to direct the Boundary Committee to conduct a review of the district in question (or any part of it).
- (3) As soon as practicable after deciding whether or not to direct the Boundary Committee to conduct an electoral review, the Commission must give the council notice of the decision.

44 Electoral Commission to make order for new electoral scheme

- (1) Where the Electoral Commission receive notice under section 42 that a council has passed a resolution, they must—
 - (a) in the case of a resolution for elections by halves, make an order for elections by halves in relation to the council (see sections 45 and 46);
 - (b) in the case of a resolution for elections by thirds, make an order for elections by thirds in relation to the council (see sections 47 and 48).
- (2) But the Commission must not make the order—
 - (a) before they have decided whether or not to give the Boundary Committee a direction to conduct an electoral review (see section 43(2)), or
 - (b) if they give such a direction, before the Boundary Committee have concluded the review.

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

- (1) An order for elections by halves in relation to a council must secure that the ordinary elections of councillors of the council are held in years determined in accordance with this section.
- (2) Ordinary elections of the councillors of the council are to be held in—
 - (a) the first relevant year after the year in which the Electoral Commission make the order, and

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(b) each subsequent year for elections by halves.

(3) In this section—

“relevant year” means 2011 and every fourth year afterwards;

“year for elections by halves” means 2012 and every second year afterwards.

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

(1) An order for elections by halves in relation to a council must make provision for the election and retirement of councillors in accordance with this section.

(2) In the case of the ordinary elections held in the year determined in accordance with section 45(2)(a)—

(a) all of the councillors are to be elected;

(b) on the fourth day after the elections are held—

(i) the councillors elected in those elections are to come into office, and

(ii) all of the sitting councillors are to retire.

(3) In the case of ordinary elections held subsequently—

(a) one half (or as nearly as may be) of the councillors are to be elected;

(b) on the fourth day after the elections are held—

(i) the councillors elected in those elections are to come into office, and

(ii) the specified sitting councillors are to retire.

(4) The order must include provision for identifying which councillors are to retire in each year in which ordinary elections are to be held (other than the first), including provision for identifying—

(a) the wards affected;

(b) the councillors affected within particular wards.

(5) In this section “specified sitting councillors”, in relation to ordinary elections, means the sitting councillors who are to retire in the year of those elections by virtue of the order.

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

(1) An order for elections by thirds in relation to a council must secure that the ordinary elections of councillors of the council are held in years determined in accordance with this section.

(2) Ordinary elections of the councillors of the council are to be held in—

(a) the first relevant year after the year in which the Electoral Commission make the order, and

(b) each subsequent year, unless it is a fallow year.

(3) In this section—

“fallow year” means 2013 and every fourth year afterwards;

“relevant year” means—

(a) in relation to a metropolitan district council: 2014 and every fourth year afterwards;

- (b) in relation to a non-metropolitan district council: 2011 and every fourth year afterwards.

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

- (1) An order for elections by thirds in relation to a council must make provision for the election and retirement of councillors in accordance with this section.
- (2) In the case of the ordinary elections held in the year determined in accordance with section 47(2)(a)—
 - (a) all of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and
 - (ii) all of the sitting councillors are to retire.
- (3) In the case of ordinary elections held subsequently—
 - (a) one third (or as nearly as may be) of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and
 - (ii) the specified sitting councillors are to retire.
- (4) The order must include provision for identifying which councillors are to retire in each year in which ordinary elections are to be held (other than the first), including provision for identifying—
 - (a) the wards affected;
 - (b) the councillors affected within particular wards.
- (5) In this section “specified sitting councillors”, in relation to ordinary elections, means the sitting councillors who are to retire in the year of those elections by virtue of the order.

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

- (1) An order under section 44 (order for elections by halves or for elections by thirds) may include provision about the transition to the council’s new electoral scheme.
- (2) Provision made by virtue of this section may, in particular, include provision for the retirement of some councillors after their initial election at times different from those otherwise applying, and for identifying which of them are so to retire.

50 Power of Electoral Commission to make incidental etc provision

The Commission may by order make incidental, consequential, transitional or supplemental provision in connection with provision made by order under section 44 (order for elections by halves or for elections by thirds).

51 Position if Electoral Commission act under existing powers

In a case in which—

- (a) the Commission give the Boundary Committee a direction to conduct an electoral review (see section 43(2)), and

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(b) in response to that request the Boundary Committee make recommendations to the Commission for electoral changes, nothing in this Chapter requires the Commission to make any provision in relation to matters dealt with, or to be dealt with, by the Commission in an order under section 17 of the Local Government Act 1992 (c. 19) giving effect to those recommendations.

52 Publicity for order by Electoral Commission

- (1) A council must comply with this section as soon as practicable after the Electoral Commission have made an order under section 44 (order for elections by halves or for elections by thirds) in relation to it.
- (2) The council must produce an explanatory document.
- (3) The council must make the explanatory document—
 - (a) available for public inspection at the council’s principal office at all reasonable times, and
 - (b) available to the public by such other means as the council thinks appropriate.
- (4) The council must publicise these matters—
 - (a) that the council has become subject to the new electoral scheme;
 - (b) how the explanatory document is available in accordance with subsection (3);
 - (c) the address of the council’s principal office.
- (5) It is for the council to decide how these matters are to be publicised.
- (6) An explanatory document is a document which sets out details of the new electoral scheme.

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

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

- (1) This section applies if a council passes a resolution under this Chapter.
- (2) The council may by order make provision that changes the years in which the ordinary elections of parish councillors for any parish situated in the council’s area are to be held.
- (3) The power may only be exercised so as to secure that those elections are to be held in years in which ordinary elections of district councillors for a ward in which any part of the parish is situated are to be held.
- (4) The order may include transitional provision—
 - (a) for the retirement of existing parish councillors at times different from those otherwise applying;
 - (b) for the retirement of some parish councillors after their initial election after the order comes into force at times different from those otherwise applying.

Amendment of existing provisions about schemes for ordinary elections

54 Amendment of existing provisions about schemes for ordinary elections

- (1) In section 7 of the Local Government Act 1972 (c. 70) (elections of councillors) omit subsections (4) to (6).
- (2) In section 8 of the Local Government Act 1972 (constitution and membership of London borough councils), omit subsections (2) and (3).
- (3) In section 86 of the Local Government Act 2000 (c. 22) (power to specify scheme for elections)—
 - (a) before subsection (1) insert—

“(A1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council in England is the scheme under the first option set out in section 85.”;
 - (b) in subsection (1) after “specified council” insert “in Wales”.
- (4) If—
 - (a) a local authority makes a request under section 7(4) of the Local Government Act 1972, and
 - (b) immediately before subsection (1) above comes into force in relation to that authority, the request has not yet been dealt with,

the repeal of section 7(4) to (6) of the 1972 Act does not apply to the request unless, and until, it is dealt with.
- (5) For the purposes of subsection (4) a request under section 7(4) of the 1972 Act is “dealt with” in either of these cases—
 - (a) if the Secretary of State notifies the local authority that he has decided not to make an order under section 7(6) of the 1972 Act in response to the request;
 - (b) if the Secretary of State makes an order under section 7(6) in response to the request.
- (6) The repeal of section 7(6) or 8(2) of the Local Government Act 1972 or of section 86(1) of the Local Government Act 2000 (so far as it relates to England) does not affect any order made under that provision before its repeal.