



# Parliamentary Voting System and Constituencies Act 2011

## 2011 CHAPTER 1

### PART 1

#### VOTING SYSTEM FOR PARLIAMENTARY ELECTIONS

##### *The referendum*

#### **1 Referendum on the alternative vote system**

- (1) A referendum is to be held on the voting system for parliamentary elections.
- (2) The referendum must be held before 31 October 2011.
- (3) The referendum is to be held on 5 May 2011 unless before then an order is made under subsection (4).
- (4) If the Minister is satisfied that it is impossible or impracticable for the referendum to be held on 5 May 2011, or that it cannot be conducted properly if held on that day, the Minister may by order appoint a later day as the day on which the referendum is to be held.
- (5) Where a day is appointed under subsection (4), the Minister may by order make supplemental or consequential provision, including provision modifying or amending this Act or another enactment (and, in particular, provision modifying or amending this Act as regards the meaning of “voting area” or “counting officer”).
- (6) An order under this section may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (7) The question that is to appear on the ballot papers is—

*“At present, the UK uses the “first past the post” system to elect MPs to the House of Commons. Should the “alternative vote” system be used instead?”*

- (8) In Wales, the following Welsh version of the question is also to appear on the ballot papers—

*“Ar hyn o bryd, mae’r DU yn defnyddio’r system “y cyntaf i’r felin” i ethol ASau i Dŷ’r Cyffredin. A ddylid defnyddio’r system “pleidlais amgen” yn lle hynny?”*

- (9) Schedule 1 has effect in relation to the referendum.

## **2 Entitlement to vote in the referendum**

- (1) Those entitled to vote in the referendum are—

- (a) the persons who, on the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency, and
- (b) the persons who, on that date, are disqualified by reason of being peers from voting as electors at parliamentary elections but—
  - (i) would be entitled to vote as electors at a local government election in any electoral area in Great Britain,
  - (ii) would be entitled to vote as electors at a local election in any district electoral area in Northern Ireland, or
  - (iii) would be entitled to vote as electors at a European Parliamentary election in any electoral region by virtue of section 3 of the Representation of the People Act 1985 (peers resident outside the United Kingdom).

- (2) In subsection (1)(b)(i) “local government election” includes a municipal election in the City of London (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen and liverymen in common hall).

## **3 Conduct of the referendum**

- (1) The referendum is to be conducted in accordance with the rules set out in Part 1 of Schedule 2.
- (2) Part 2 of that Schedule (forms and directions) has effect for the purposes of those rules.
- (3) Schedule 3 (absent voting in the referendum) has effect.
- (4) Schedule 4 (application to the referendum of existing provisions) has effect.

## **4 Combination of polls**

- (1) Where the date of the poll for one or more of the following is the same as the date of the poll for the referendum, the polls are to be taken together—
  - (a) a local authority election in England;
  - (b) a local referendum in England;
  - (c) a mayoral election in England.
- (2) The polls for the referendum and the Welsh Assembly general election in 2011 are to be taken together.
- (3) The polls for the referendum and the Scottish parliamentary general election in 2011 are to be taken together.

- (4) The polls for—
- (a) the referendum,
  - (b) the general election of members of the Northern Ireland Assembly to be held on 5 May 2011, and
  - (c) the Northern Ireland local elections to be held on that date,
- are to be taken together.
- (5) The following have effect—
- Schedule 5, in relation to the polls to be taken together in England under subsection (1);
  - Schedule 6, in relation to the polls to be taken together in Wales under subsection (2);
  - Schedule 7, in relation to the polls to be taken together in Scotland under subsection (3);
  - Schedule 8, in relation to the polls to be taken together in Northern Ireland under subsection (4).
- (6) Polls taken together under this section must not be taken together with any other polls (despite provision in any enactment to the contrary).
- (7) Section 16 of the Representation of the People Act 1985 (postponement of poll at parish elections etc) does not apply to any polls taken together under subsection (1).
- (8) If any of the elections referred to in subsections (2) to (4) are not held on the same day as the referendum, this Part has effect with any necessary adaptations and in particular—
- (a) if the Welsh Assembly general election in 2011 is not held on that day, subsection (2) and Schedule 6 do not apply (and Part 3 of Schedule 4 applies with the necessary adaptations);
  - (b) if the Scottish parliamentary general election in 2011 is not held on that day, subsection (3) and Schedule 7 do not apply (and Part 3 of Schedule 4 applies with the necessary adaptations);
  - (c) if any of the elections referred to in subsection (4) are not held on that day, that subsection and Schedule 8 either do not apply or apply only in relation to the elections that are held on that day.
- (9) Where a day is appointed by an order under section 1(4)—
- (a) if that day is the same as the date of a poll mentioned in subsection (1), the Minister may by order make provision disapplying that subsection or any of paragraphs (a) to (c) of it;
  - (b) if that day is the same as the date of a poll mentioned in subsection (2) or (3), the Minister may by order make provision disapplying the subsection in question;
  - (c) if that day is the same as the date of a poll mentioned in subsection (4), the Minister may by order make provision disapplying that subsection or either of paragraphs (b) and (c) of it.
- (10) Where a day is appointed by an order under section 1(4), and that day is the same as the date of a poll not mentioned in subsections (1) to (4), the Minister may by order—
- (a) provide that the polls are to be taken together, and
  - (b) make provision for and in connection with the combination of the polls.

(11) An order containing provision made under subsection (9) or (10)—

- (a) may make supplemental or consequential provision, including provision modifying or amending this Act or another enactment (and, in particular, provision modifying or amending this Act as regards the meaning of “voting area” or “counting officer”);
- (b) may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(12) In this section—

“local authority election in England” means the election of a councillor of any of the following—

- (a) a county council in England;
- (b) a district council in England;
- (c) a London borough council;
- (d) a parish council;

“local referendum in England” means a referendum held in England under Part 2 of the Local Government Act 2000;

“mayoral election in England” means an election in England for the return of an elected mayor as defined by section 39(1) of the Local Government Act 2000;

“Northern Ireland local election” means a local election as defined by section 130(1) of the Electoral Law Act (Northern Ireland) 1962;

“Scottish parliamentary general election” means an ordinary election under section 2 of the Scotland Act 1998;

“Welsh Assembly general election” means an ordinary election under section 3 of the Government of Wales Act 2006.

## **5 Press comment etc not subject to spending controls**

Expenses incurred in respect of the publication of any matter relating to the referendum, other than an advertisement, in—

- (a) a newspaper or periodical,
- (b) a broadcast made by the British Broadcasting Corporation or Sianel Pedwar Cymru, or
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996,

are not “referendum expenses” for the purposes of Part 7 of the 2000 Act.

## **6 Control of loans etc to permitted participants**

(1) The 2000 Act has effect in relation to the referendum as if the Schedule set out in Schedule 9 to this Act were inserted in that Act as Schedule 15A.

(2) Section 120 of the 2000 Act (returns as to referendum expenses) has effect in relation to the referendum as if at the end of subsection (2)(d) there were inserted “and a statement of regulated transactions entered into in respect of the referendum which complies with the requirements of paragraphs 11 to 15 of Schedule 15A”.

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

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- (3) Section 123 of the 2000 Act (declaration of responsible person as to return under section 120) has effect in relation to the referendum as if for subsection (3) there were substituted—

“(3) In a case where the permitted participant either is not a registered party or is a minor party, the declaration must also—

- (a) in relation to all relevant donations recorded in the return as having been accepted by the permitted participants—
  - (i) state that they were all from permissible donors, or
  - (ii) state whether or not section 56(2) was complied with in the case of each of those donations that was not from a permissible donor;
- (b) in relation to all regulated transactions recorded in the return as having been entered into by the permitted participant—
  - (i) state that none of the transactions was made void by paragraph 5(2) or (6) or 6(3) of Schedule 15A, or
  - (ii) state whether or not paragraph 5(3)(a) of that Schedule was complied with in the case of each of the transactions that was made void by paragraph 5(2) or (6) of that Schedule.”

- (4) Section 124 of the 2000 Act (public inspection of returns under section 120) has effect in relation to the referendum as if for subsection (2) there were substituted—

“(2) If the return contains a statement of relevant donations or a statement of regulated transactions in accordance with section 120(2)(d), the Commission shall secure that the copy of the statement made available for public inspection does not include—

- (a) in the case of any donation by an individual, the donor’s address;
- (b) in the case of a transaction entered into by the permitted participant with an individual, the individual’s address.”

- (5) Schedule 15 to the 2000 Act (control of donations to permitted participants) has effect in relation to the referendum as if—

- (a) paragraph (d) of paragraph 2(1) were omitted, together with paragraph 2(3)(a), the words “the loan or” in paragraphs 2(3) and 5(4)(a), the words “(d) or” in paragraph 5(4), and paragraph 5(4)(a)(i);
- (b) for paragraph (b) of paragraph 10(2) there were substituted—
  - “(b) the value of it and any other relevant benefit or benefits is more than that amount.

In paragraph (b) “relevant benefit” means any relevant donation or regulated transaction (within the meaning of Schedule 15A) made by, or entered into with, the person who made the donation.””

- (6) Schedule 19C to the 2000 Act (civil sanctions), and any order under Part 5 of that Schedule, have effect as if offences under paragraph 8(1) to (12) of the Schedule set out in Schedule 9 to this Act were offences prescribed in an order under that Part.

- (7) Paragraphs 4, 5, 6 and 8 of the Schedule set out in Schedule 9 do not apply to regulated transactions (within the meaning of that Schedule) entered into before the commencement of this section; but otherwise the provisions of this section (and that Schedule) apply to such transactions entered into before as well as after that commencement.

- (8) Paragraph 7 of that Schedule applies only to a purported transfer made on or after the commencement of this section.

## 7 Interpretation

- (1) In this Part—

“the 1983 Act” means the Representation of the People Act 1983;

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000;

“Chief Counting Officer” means the Chief Counting Officer for the referendum (see section 128(2) of the 2000 Act);

“counting officer” has the meaning given by paragraph 2 of Schedule 1;

“enactment” includes—

- (a) any provision of an Act,
- (b) any provision of, or of any instrument made under, an Act of the Scottish Parliament,
- (c) any provision of, or of any instrument made under, Northern Ireland legislation, and
- (d) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978);

“the Minister” means the Lord President of the Council or the Secretary of State;

“permitted participant” has the same meaning as in Part 7 of the 2000 Act (see section 105(1) of that Act);

“the referendum” means the referendum under section 1;

“referendum rules” means the rules in Part 1 of Schedule 2;

“Regional Counting Officer” means an officer appointed under paragraph 3(1) of Schedule 1;

“registration officer” has the meaning given in section 8 of the 1983 Act;

“responsible person” has the same meaning as in Part 7 of the 2000 Act (see section 105(2) of that Act).

- (2) Each of the following, as it exists on the day of the referendum, is a “voting area” for the purposes of this Part—

- (a) a district in England for which there is a district council;
- (b) a county in England in which there are no districts with councils;
- (c) a London borough;
- (d) the City of London (including the Inner and Middle Temples);
- (e) the Isles of Scilly;
- (f) a constituency for the National Assembly for Wales;
- (g) a constituency for the Scottish Parliament;
- (h) Northern Ireland.

### *Result of the referendum*

## **8 Commencement or repeal of amending provisions**

- (1) The Minister must make an order bringing into force section 9, Schedule 10 and Part 1 of Schedule 12 (“the alternative vote provisions”) if—
  - (a) more votes are cast in the referendum in favour of the answer “Yes” than in favour of the answer “No”, and
  - (b) the draft of an Order in Council laid before Parliament under subsection (5A) of section 3 of the Parliamentary Constituencies Act 1986 (substituted by section 10(6) below) has been submitted to Her Majesty in Council under section 4 of that Act.
- (2) If more votes are not cast in the referendum in favour of the answer “Yes” than in favour of the answer “No”, the Minister must make an order repealing the alternative vote provisions.
- (3) An order under subsection (1)—
  - (a) must bring the alternative vote provisions into force on the same day as the coming into force of the Order in Council in terms of the draft referred to in paragraph (b) of that subsection, but
  - (b) does not affect any election held before the first parliamentary general election following that day.

## **9 The alternative vote system: amendments**

- (1) In Schedule 1 to the 1983 Act (parliamentary elections rules), after rule 37 there is inserted—

### *“How votes are to be given*

- 37A (1) A voter votes by marking the ballot paper with—
- (a) the number 1 opposite the name of the candidate who is the voter’s first preference (or, as the case may be, the only candidate for whom the voter wishes to vote),
  - (b) if the voter wishes, the number 2 opposite the name of the candidate who is the voter’s second preference,
- and so on.
- (2) The voter may mark as many preferences (up to the number of candidates) as the voter wishes.”

- (2) After rule 45 in that Schedule there is inserted—

### *“How votes are to be counted*

- 45A (1) This rule sets out how votes are to be counted, in one or more stages of counting, in order to give effect to the preferences marked by voters on their ballot papers and so to determine which candidate is elected.
- (2) Votes shall be allocated to candidates in accordance with voters’ first preferences and, if one candidate has more votes than the other candidates put together, that candidate is elected.



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

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- (3) If not, the candidate with the fewest votes is eliminated and that candidate's votes shall be dealt with as follows—
  - (a) each vote cast by a voter who also ranked one or more of the remaining candidates shall be reallocated to that remaining candidate or (as the case may be) to the one that the voter ranked highest;
  - (b) any votes not reallocated shall play no further part in the counting.
- (4) If after that stage of counting one candidate has more votes than the other remaining candidates put together, that candidate is elected.
- (5) If not, the process mentioned in paragraph (3) above shall be repeated as many times as necessary until one candidate has more votes than the other remaining candidates put together, and so is elected.

*Information to be given by returning officer after each stage of counting*

- 45B (1) If no candidate is elected (as mentioned in rule 45A(2)) at the first stage of counting, the returning officer shall, immediately after that stage, record and make publicly available the following information—
- (a) the number of first-preference votes obtained by each candidate;
  - (b) which candidate was eliminated;
  - (c) the number of rejected ballot papers.
- (2) Immediately after each subsequent stage of counting, except the final stage (on completion of which the requirements in rule 50 apply), the returning officer shall record and make publicly available the following information—
- (a) the number of votes obtained by each candidate at that stage (including any reallocated in accordance with rule 45A);
  - (b) which candidate was eliminated at that stage;
  - (c) the number of votes of the candidate eliminated at the previous stage that were not reallocated.”
- (3) Schedule 10 makes further amendments to the parliamentary elections rules, and other legislation, in connection with the alternative vote system.
  - (4) The Minister may by order make any amendments to primary or secondary legislation (whenever passed or made) that are consequential on amendments made by this section or Schedule 10.
  - (5) In subsection (4) “primary or secondary legislation” means any provision of, or made under, any Act.
  - (6) An order under subsection (4) may include transitional or saving provision.
  - (7) An order under subsection (4) may not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
  - (8) Before making an order under subsection (4) the Minister must consult the Electoral Commission.