

**2008 No. 2857**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Elections (Ordinary Day of Elections in 2009) Order  
2008**

*Made - - - - at 8.45 p.m. on 4th November 2008*

*Coming into force in accordance with article 1(1)*

The Secretary of State makes this Order in exercise of the powers conferred by section 37A of the Representation of the People Act 1983(a).

Before making this Order, the Secretary of State consulted the following about the proposal—

- (a) the Electoral Commission, and
- (b) such other persons as she considered appropriate.

In accordance with section 37A(10) of the Representation of the People Act 1983, a draft of this Order was laid before, and approved by, both Houses of Parliament.

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Local Elections (Ordinary Day of Elections in 2009) Order 2008, and comes into force on the day after that on which it is made.

(2) In this Order, “the 1972 Act” means the Local Government Act 1972(b).

**Change of ordinary day of election**

**2.** In 2009, the ordinary day of election of councillors in England for—

- (a) counties and districts; and
- (b) parishes,

shall be changed so as to be the same as the date of the poll at the European Parliamentary general election held in that year.

**Parish council elections**

**3.** Section 16(1) of the Representation of the People Act 1985(c) shall not apply in relation to any elections of parish councillors to be held on the ordinary day of election of councillors for local government areas in England in 2009.

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(a) 1983 c.2. Section 37A was inserted by section 60 of the Local Government and Public Involvement in Health Act 2007 (2007 c. 28).  
(b) 1972 c.70.  
(c) 1985 c.50.

### **Retirement date of councillors retiring or coming into office in 2009**

4.—(1) The retirement date of a councillor or elected mayor who would regularly retire on the fourth day after the ordinary day of election in 2009 shall be determined in accordance with article 2, even if, as a result of the change in the ordinary day of election, his or her term of office will be longer than the period specified in any enactment.

(2) The retirement date of a councillor or elected mayor who comes into office on the fourth day after the ordinary day of election in 2009 shall be unaffected by article 2, even if, as a result of the change in the ordinary day of election, his or her term of office will be shorter than the term specified in any enactment.

(3) In this regulation, “elected mayor” means an individual elected as mayor of an authority in accordance with Part 2 of the Local Government Act 2000.

### **Elections to fill casual vacancies**

5. In relation to a casual vacancy in the office of a councillor of a district, county or parish council who would regularly have retired on the fourth day after the ordinary day of election in 2009—

- (a) section 89(3) of the 1972 Act; and
- (b) paragraphs (3) and (6) of rule 5 of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006(a),

have effect as if for the words “six months before” in each of these provisions there were substituted the words “the period beginning with 7th November 2008 and ending immediately before”.

### **Annual meetings**

6. In relation to the annual meetings of authorities in England in 2009, the provisions of Schedule 12 to the 1972 Act have effect as if—

- (a) in paragraph 6A(1)(b) (date of annual meeting of joint authorities and police authorities), for the words “and 30th June” there were substituted the words “and 31st August”;
- (b) in paragraph 14(1) (date of annual meeting of parish), in the case of a parish council for which 2009 is a year of ordinary elections, for the words “and 1st June” there were substituted the words “and 1st July”.

### **Administration of European Parliamentary elections**

7.—(1) Paragraphs (2) and (3) shall have effect for the purposes of the European Parliamentary general elections in England in 2009.

(2) In the definition of “local counting area” in regulation 2 of the 2004 Regulations, the reference to a parliamentary constituency shall have effect as if it were a reference to—

- (a) a district for which there is a district council;
- (b) a county for which there is a county council but no district councils;
- (c) a London Borough;
- (d) the City of London (including the Inner and Middle Temples); and
- (e) the Isles of Scilly.

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(a) S.I. 2006/3305.

(b) Paragraph 6A of Schedule 12 to the Local Government Act 1972 was inserted by paragraph 35(2) of Schedule 14 to the Local Government Act 1985 (c.51), and substituted by section 10(3) of the Local Government Act 1986 (c.10). It has been amended by paragraph 15(2) of Schedule 4 to the Police and Magistrates’ Courts Act 1994 (c.29), paragraph 1(2)(h) of Schedule 7 to the Police Act 1996 (c.16), and paragraph 36(2) of Schedule 27 to the Greater London Authority Act 1999 (c.29).

(3) In relation to each local counting area (within the meaning given to that term by paragraph (2))—

- (a) section 6(5A) of the European Parliamentary Elections Act 2002(a) (returning officers), and regulation 6(2) of the 2004 Regulations shall not apply;
- (b) the local returning officer shall be the person who, by virtue of section 35 of the Representation of the People Act 1983(b), is—
  - (i) for a district, a county to which paragraph (2)(b) applies, or a London Borough, the returning officer for elections of councillors for that area;
  - (ii) for the City of London, the person who is the returning officer for the election of councillors in the London borough of Westminster; and
  - (iii) for the Isles of Scilly, the returning officer for elections to the Council of the Isles of Scilly.

(4) In this article, “the 2004 Regulations” means the European Parliamentary Elections Regulations 2004(c).

Signed by authority of the Secretary of State for Communities and Local Government

*John Healey*  
Minister of State

8.45 p.m. 4th November 2008

Department for Communities and Local Government

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(a) 2002 c. 24. Subsection (5A) of section 6 was inserted by section 20(3) of the European Parliament (Representation) Act 2003 (c.7).  
(b) 1983 c. 2.  
(c) S.I.2004/293.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order changes the date of local elections in England in 2009, so that it is the same as the date of the European Parliamentary elections in that year, and deals with a number of incidental, supplementary and consequential matters.

The ordinary day for local elections in England is usually the first Thursday in May in each year by virtue of section 37(1)(a) of the Representation of the People Act 1983 (“the Act”). However, that provision is subject to any order, such as this one, made under section 37A of the Act. Article 2 provides that the ordinary day of elections shall be changed to be the same as the date of the poll for the European Parliamentary elections. By virtue of section 15 of the Representation of the People Act 1985 (c.50), where the polls at an ordinary local government election and a European Parliamentary election are held on the same day they shall be taken together.

Article 3 provides that in relation to the 2009 elections, section 16(1) of the Representation of the People Act 1985 shall not apply (this section normally postpones for three weeks any parish elections due to take place on the same date as European Parliamentary elections).

Article 4 provides that the retirement date of any councillors due to retire in 2009 shall be determined in accordance with the ordinary day as moved under article 2, while that of any councillors coming into office in 2009 shall be unaffected by the change of ordinary day. The term of office of a councillor due to retire in 2009 will consequently be longer, and that of a councillor coming into office in 2009 will be shorter, than would otherwise be the case.

Article 5 extends, in relation to local elections in England, the period during which it is not necessary to hold a by-election prior to the ordinary day of elections, so that in relation to elections in 2009 this period will last from 7th November 2008 (the date on which this period would normally start) until the modified ordinary day of elections in 2009.

Article 6 extends the date by which joint authorities and police authorities in England must hold their annual meetings until 31st August, so that they can be held after any elections which may affect their composition. It also extends the date by which annual parish meetings in parishes which are having ordinary elections to the parish council in 2009 must take place to 1st July, so that they can be held after any such elections.

Article 7 provides for the European Parliamentary general elections in England in 2009 to be administered by reference to local authority areas rather than Parliamentary constituency areas, and for the local returning officer to be the person who administers local elections for that area.

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£4.00