



# **Draft Electoral Administration Provisions**

Presented to Parliament by the Deputy Prime Minister  
by Command of Her Majesty  
July 2011

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**This document sets out draft legislation on three electoral administration provisions for pre-legislative scrutiny by Parliament. The draft legislation is accompanied by Explanatory Notes in order to assist the reader of the provisions and to help inform consideration of them.**

## **DRAFT ELECTORAL ADMINISTRATION PROVISIONS**

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### **EXPLANATORY NOTES**

#### **INTRODUCTION**

1. These Explanatory Notes relate to the draft Electoral Administration provisions published on 13 July 2011. They have been prepared by the Cabinet Office in order to assist the reader of these provisions and to help inform debate on it. They do not form part of the Electoral Administration provisions and have not been endorsed by Parliament.
2. The Notes need to be read in conjunction with the Electoral Administration provisions. They are not, and are not meant to be, a comprehensive description of the Electoral Administration provisions. So where a part of a clause does not seem to require any explanation or comment, none is given.

## **SUMMARY**

3. In summary, these draft provisions:
  - extend the electoral timetable for UK Parliamentary elections from 17 to 25 working days and, in doing so, adjust a number of the deadlines within the timetable (in particular the date for delivery of nominations) which are fixed to the start of the electoral timetable. This will allow more time for the postal vote process and to facilitate the administration of elections more generally;
  - make changes to the timing of polling place reviews in Great Britain to bring them in line with the proposals to set Parliamentary terms to 5 year periods, and the five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011;
  - address an oversight in existing legislation to enable a UK Parliamentary election candidate jointly nominated by two or more registered political parties to use on the ballot paper an emblem registered by one of the nominating parties.

## **TERRITORIAL EXTENT AND APPLICATION**

4. Clause 5 provides that an amendment or repeal made by this Act has the same extent as the enactment or part of an enactment amended or repealed.
5. The provisions which extend the electoral timetable for UK Parliamentary elections will apply throughout the UK with the exception of the additional register updates in the run-up to a poll (clause 2 of the draft provisions) which will apply only to Great Britain.
6. The provisions relating to polling place reviews will apply to Great Britain only.
7. The provisions which relate to emblems for candidates jointly nominated by two or more registered parties at a UK Parliamentary election will apply throughout the UK.

## COMMENTARY ON CLAUSES

### Extending the UK Parliamentary election timetable

#### **Clause 1: Extension of timetable for parliamentary elections**

8. Subsection (1) amends the Fixed-term Parliaments Act 2011 (if the Fixed-term Parliaments Bill is enacted) to provide that Parliament shall be dissolved 25, rather than 17, working days before the next UK parliamentary general election. This provision therefore has the effect of extending the electoral timetable to 25 days.
9. Subsections (2) and (3) amend the Parliamentary Elections Rules (Schedule 1 to the Representation of the People Act 1983 (“the 1983 Act”)) to also extend the electoral timetable for UK Parliamentary by-elections. The Rules as amended by this provision will provide that polling day will take place between 17 and 19, rather than between 9 and 11, working days after the last day for delivery of nomination papers, thereby allowing an extended timetable which retains sufficient flexibility for the Returning Officer to set polling day on a Thursday, in keeping with convention.
10. Subsection (4) amends rules 61(9), 63(9) and 64(6) of the Parliamentary Elections Rules to extend the electoral timetable for polls which are re-run due to the death of a candidate. The rules as amended by this provision will state that the fresh poll will take place between 21 and 27, rather than between 15 and 19, working days after the day on which the election writ is taken to have been received.

#### **Clause 2: Alteration of electoral registers: pending elections**

11. Clause 2 amends the 1983 Act to add a new section 13AB which provides for there to be two interim publication dates where an election is pending, on which notices of alteration to the electoral register must be published.
12. At present, section 13B of the 1983 Act provides that in addition to the monthly alterations to the electoral register published under section 13A, where an election is pending there is to be a further notice of alteration to the register published on the 5th or 6th day before the poll (the day being at the discretion of the registration officer). This ensures that there is a final update to the register which can be used for the poll.
13. However, there may be a significant period between the previous monthly notice of alteration and the final register. Postal ballots can only be sent to electors on the register, and cannot therefore be issued until an elector appears on the register or an alteration to it. Therefore even under a longer electoral timetable many voters could not be sent postal ballots until less than 5 days before the election. To help realise the full benefits of a longer timetable, new section 13AB therefore requires an additional notice of alteration to the register to be published on the final day for

delivery of nominations (normally the 19th day before the poll). Section 13AB will also require a further notice of alteration between 19 and 6 days before the poll, the exact timing of which will be at the discretion of the registration officer. The additional notices of alteration will enable more postal ballot papers to be issued earlier.

14. New section 13AB is concerned with the alteration of registers pending certain elections in Great Britain. Where a registration officer is satisfied that an entry should be made in, or removed from, the register new section 13AB requires that on the interim publication date the registration officer must publish a notice specifying the appropriate alteration in the electoral register. The alterations would be those required as a result of the circumstances covered by subsection (1) of section 13AB. Subsection (3) states that the alteration takes effect from the beginning of the interim publication date.
15. Subsections (4), (5) and (6) of new section 13AB establish that there are two interim publication dates. The first interim publication date is the last day on which nomination papers may be delivered to the returning officer. The second interim publication date is to be determined by the registration officer but it must be in the period after the first interim publication date and before the appropriate publication date. The appropriate publication date is the date on which the final version of the register (to be used for the poll) is published. This appropriate publication date is defined in subsection (5) of section 13B of the 1983 Act, and is either the fifth or sixth day before the poll as determined by the registration officer.
16. Subsection (7) of section 13AB defines “relevant provision” which is referred to in subsection (1)(c). A notice of alteration need not be made on the first interim publication date where an alteration has already taken effect, or is due to take effect, under section 13A(2). A notice of alteration need not be made on the second interim publication date where one has already taken effect, or is due to take effect, under section 13A(2), or on the first interim publication date.
17. Subsection (8) provides that section 13AB applies to parliamentary elections in England, Wales and Scotland; to elections to the European Parliament in England, Wales and Scotland; and to local government elections in England and Wales. Subsection (9) applies the interpretation provisions at subsections (5) and (6) of section 13B of the 1983 Act to this section. Section 13B(5) defines in particular the appropriate publication date (referred to in paragraph 15 above), and section 13B(6) applies section 119 of the 1983 Act for the purposes of the computation of time.
18. Subsection (3) of clause 2 makes a number of consequential amendments to provisions in the 1983 Act which are necessary as a result of the new section 13AB.

### **Clause 3: Review of polling districts and places in Great Britain**

19. Clause 3 makes provision about the timing of reviews of polling districts and places by local authorities in Great Britain. At present, section 18C of the 1983 Act provides that every polling place and every polling district must be reviewed at least once every four years. In light of the proposals to set Parliamentary terms to 5 year periods in the Fixed-term Parliaments Bill 2011, and the new five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011, clause 3 amends section 18C of the 1983 Act to provide that a local authority must carry out and complete a review of all the polling districts and places in its area within the period of 16 months beginning with 1<sup>st</sup> October 2013, and the period of 16 months beginning with 1<sup>st</sup> October of every fifth year after that. This is so as to bring the reviews into line with the newly proposed cycle of Parliamentary terms and the new cycle of UK Parliamentary boundary reviews.
20. The clause does not prevent a local authority carrying out a review of some or all of the polling districts or polling places in its area at other times.

### **Clause 4: use of emblems on ballot papers**

21. Clause 4 makes provision about the use of emblems on ballot papers by candidates at UK Parliamentary elections. At present, while a candidate who is standing on behalf of a single party may choose to have a party emblem displayed on the ballot paper, there is no provision for a candidate who is standing on behalf of more than one party to use an emblem. Clause 4 therefore inserts new provisions in rule 19 of the Parliamentary Elections Rules to provide that a candidate standing on behalf of more than one party at a UK Parliamentary election may request that the ballot paper shall contain against the candidate's particulars a registered emblem of one of those parties.

### **Clause 5: Extent**

22. Clause 5 provides that an amendment or repeal made by this Act has the same extent as the enactment or part of an enactment amended or repealed.

### **Clause 6: Commencement**

23. Subsection (1) specifies that these provisions come into force on such day as the Minister may by order appoint.
24. Subsection (2) provides that an order under subsection (1) may appoint different days for different purposes and make transitional, transitory or saving provision.
25. Subsection (3) states that in this section "the Minister" means the Lord President of the Council or the Secretary of State.



## **FINANCIAL EFFECTS OF THE PROVISIONS**

26. It is difficult to obtain financial data in relation to the different proposals. However, we have developed the provisions in discussion with key stakeholders and our view is that the proposals do not have significant impacts on cost and resources. The pre-legislative scrutiny process will provide an opportunity for the possible impacts of the proposals to be considered further.

## **EFFECT OF THE PROVISIONS ON PUBLIC SERVICE MANPOWER**

27. We do not expect these proposals to have any significant impact on public service manpower. The extended electoral timetable may mean that electoral support staff are employed for a longer period in the run-up to the poll, however roles and key responsibilities for running elections remain unchanged by these proposals.

## **IMPACT ASSESSMENT**

28. The draft clauses have no impact on business or the third sector as the nature of the impact of the proposed provisions falls on citizens.

## **EUROPEAN CONVENTION ON HUMAN RIGHTS**

29. Although section 19(1) of the Human Rights Act 1998 does not require a minister to sign a statement of compatibility with the European Convention on Human Rights (“ECHR”) in relation to draft legislation, the Government’s view is that the draft clauses are compatible with the Convention rights as defined by section 1 of the 1998 Act and it would be possible for a minister to make a statement of compatibility under section 19(1)(a) of that Act.
30. In the Government’s view none of the clauses engage Convention rights. However, to the extent that any of these provisions may be considered to engage rights set out in Article 3 of Protocol 1 to the ECHR (the right to free elections), the provisions are compatible with those rights. These are technical changes to matters of electoral administration, which do not have any material impact on the right of any person to participate in free elections.

# Draft clauses

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*Electoral administration***1 Extension of timetable for parliamentary elections**

- (1) In section 3(1) of the Fixed-term Parliaments Act 2011 (Parliament to be dissolved on 17th working day before polling day), for “17th” substitute “25th”.
- (2) Amend Schedule 1 to the Representation of the People Act 1983 (parliamentary elections rules) as follows.
- (3) In the Timetable in rule 1, in the entry relating to “Polling”, in column 3 (polling day for by-election to be on 9th to 11th day after last day for delivery of nomination papers) –
  - (a) for “ninth” substitute “17th”, and
  - (b) for “eleventh” substitute “19th”.
- (4) In rules 61(9), 63(9) and 64(6) (where election candidate dies, fresh poll to be held 15 to 19 days after day on which election writ treated as received) –
  - (a) for “15” substitute “21”, and
  - (b) for “19” substitute “27”.
- (5) In Schedule 4 to the Representation of the People Act 1985, omit paragraph 73 (which amends the entry in the Timetable in rule 1 relating to “Polling”).

**2 Alteration of electoral registers: pending elections**

- (1) Amend the Representation of the People Act 1983 as follows.
- (2) After section 13A (alteration of registers) insert –

**“13AB Alteration of registers: interim publication dates**

- (1) Subsections (2) and (3) apply in relation to an interim publication date where –
  - (a) at any time before the interim publication date, section 13A applies to a registration officer (by virtue of section 13A(1)) in connection with a determination, requirement or decision within section 13A(1)(a), (b), (c) or (d),
  - (b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant election area, and
  - (c) no alteration made in consequence of the determination, requirement or decision has already taken effect, or is due to take effect, under a relevant provision on or before the interim publication date.

- (2) On the interim publication date the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register.
  - (3) The alteration takes effect from the beginning of the interim publication date.
  - (4) There are two interim publication dates (in relation to a registration officer and an election to which this section applies).
  - (5) The first interim publication date is the last day on which nomination papers may be delivered to the returning officer for the purposes of the election.
  - (6) The second interim publication date is to be determined by the registration officer, but must be a day after the first interim publication date and before the appropriate publication date.
  - (7) In subsection (1)(c) “relevant provision” means –
    - (a) in relation to the first interim publication date, section 13A(2);
    - (b) in relation to the second interim publication date, section 13A(2) and subsection (3) as it applies in relation to the first interim publication date.
  - (8) This section applies to –
    - (a) parliamentary elections in England and Wales and in Scotland;
    - (b) elections to the European Parliament in England and Wales and in Scotland;
    - (c) local government elections in England and Wales.
  - (9) Subsections (5) and (6) of section 13B apply for the purposes of this section as they apply for the purposes of that section.”
- (3) As a consequence of the amendment made by subsection (2) –
- (a) in section 13A(4), after “section” insert “13AB(2),”;
  - (b) in section 13A(5), after “this section, section” insert “13AB,”;
  - (c) in section 13B(2) (as it has effect in England and Wales and Scotland), after “subsection (2) of that section” insert “or section 13AB(3)”;
  - (d) in section 56(4), after “13A” insert “, 13AB”;
  - (e) in section 56(4A), after “13A(2)” insert “, 13AB(3)”.

### 3 Review of polling districts and places in Great Britain

In section 18C of the Representation of the People Act 1983 (review of polling districts and places), for subsections (1) to (5) substitute –

- “(1) A relevant authority must during each compulsory review period carry out and complete –
- (a) a review under section 18A of all the polling districts in its area, and
  - (b) a review under section 18B of all the polling places in its area.
- (2) The compulsory review periods are –
- (a) the period of 16 months beginning with 1st October 2013, and
  - (b) the period of 16 months beginning with 1st October of every fifth year after that.

- (3) Subsection (1) does not prevent a relevant authority carrying out a review of some or all of the polling districts or polling places in its area at other times.”

#### **4 Use of emblems on ballot papers**

- (1) Amend rule 19 of Schedule 1 to the Representation of the People Act 1983 (ballot papers for parliamentary elections) as follows.
- (2) After paragraph (2A) insert—
  - “(2AA) If a candidate who is the subject of an authorisation by two or more parties under rule 6A(1B) so requests, the ballot paper shall contain, against the candidate’s particulars, the registered emblem (or, as the case may be, one of the registered emblems) of one of those parties.”
- (3) In paragraph (2B), for “The request” substitute “A request under paragraph (2A) or (2AA)”.

#### *Final provisions*

#### **5 Extent**

An amendment or repeal made by this Act has the same extent as the enactment (or part of an enactment) amended or repealed.

#### **6 Commencement**

- (1) This Act comes into force on such day as the Minister may by order made by statutory instrument appoint.
- (2) An order under subsection (1) may—
  - (a) appoint different days for different purposes;
  - (b) make transitional, transitory or saving provision.
- (3) In this section “the Minister” means the Lord President of the Council or the Secretary of State.



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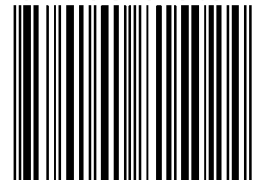
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