

Elections Act 2001

2001 Chapter 7 - *continued*

An Act to postpone local elections in England and Wales and Northern Ireland, to require polls for different elections in Northern Ireland to be taken together if they are to be taken on the same day, and to make consequential provision.

[10th April 2001]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

England and Wales

1 Postponement of local government elections in England and Wales

(1) If the ordinary day of election for an ordinary local government election in England or Wales would otherwise be 3rd May 2001, it is to be postponed to 7th June 2001.

(2) If the day of election for a local government election in England or Wales to fill a casual vacancy would otherwise be 3rd May 2001, or a day after that day but before 7th June 2001, it is to be postponed to 7th June 2001.

(3) A person validly nominated as a candidate at an election to which this section applies does not have to be nominated again for that election.

(4) In an uncontested election, a declaration of election made before the passing of this Act, for an election to which this section applies, is to have no effect.

(5) Subsection (4) does not prevent the making of a further declaration in the case of an uncontested election.

(6) Paragraph 1(2)(b) of Schedule 12 to the Local

Government Act 1972 (c. 70) (date of annual council meeting in years when there is no ordinary election) is to have effect for the year 2001 as if for "March, April or May" there were substituted "March, April, May or June".

(7) The limit on the election expenses of any candidate at an election to which this section applies is increased by 50% (whenever he was nominated).

Northern Ireland

2 Postponement of local elections in Northern Ireland

(1) The election day for local elections in Northern Ireland is postponed from 16th May 2001 to 7th June 2001.

(2) A person validly nominated as a candidate at an election to which this section applies does not have to be nominated again for that election.

(3) The limit on the election expenses of any candidate at an election to which this section applies is increased by 50% (whenever he was nominated).

3 Combination of polls

(1) Section 15 of the Representation of the People Act 1985 (c. 50) (which requires polls for different elections to be taken together if they are to be taken on the same day) shall extend to Northern Ireland.

(2) In section 15 of the 1985 Act insert the following subsection after subsection (5)-

"(6) In its application to Northern Ireland, subsection (1) above shall have effect as if the references to an ordinary local government election were to a local election."

(3) In consequence of subsection (1) above, in section 29(5) of the 1985 Act (which excepts certain sections from the extension to Northern Ireland, including sections 15 to 18) for "15 to 18" substitute "16 to 18".

(4) In section 84 of the Northern Ireland Act 1998 (c.

47) (power to make provision by Order in Council in relation to certain matters relating to Northern Ireland) after subsection (1) insert-

"(1A) The power in subsection (1) includes power to make provision with respect to polls at elections for district councillors when they are combined with polls at other elections."

4 Modification of election provisions

The Schedule modifies provisions relating to parliamentary elections and local elections in cases where the polls for such elections are to be taken together in Northern Ireland.

5 Finance

(1) This section applies if the polls at the following elections in Northern Ireland are combined under section 15 of the Representation of the People Act 1985-

- (a) any parliamentary general election for which the date of the poll is 7th June 2001, and
- (b) the local elections for which the election day is that date.

(2) Section 15(4) of that Act (cost of combined polls to be apportioned equally among the elections) does not apply.

(3) Section 29 of the Representation of the People Act 1983 (c. 2) (charges of returning officer in connection with parliamentary election charged on Consolidated Fund) applies as if the reference in subsection (3) to a parliamentary election were to the elections referred to in subsection (1) above.

(4) The Parliamentary Elections (Returning Officer's Charges) (Northern Ireland) Order 1997 (S.I. 1997/774) is to be taken to apply to the elections referred to in subsection (1) above and references to an election or a parliamentary election in that Order are to be construed accordingly.

(5) Part A of the Schedule to that Order is modified as follows-

(a) the amount specified in the right-hand column in paragraph 1(2) (maximum recoverable expenses in respect of presiding officers) is increased by £67.25;

(b) the amount specified in the right-hand column in paragraph 1(3) (increase in maximum recoverable expenses in respect of only one presiding officer at certain polling stations) is increased by £3.02;

(c) the amount specified in the right-hand column in paragraph 2(2) (maximum recoverable expenses in respect of poll clerks) is increased by £34.80.

(6) References to the Parliamentary Elections (Returning Officer's Charges) (Northern Ireland) Order 1997 include references to that Order as amended whether the amendment is made before or after this section comes into force.

General

6 Compensation

(1) The Secretary of State may-

(a) make a scheme for compensating any local authority which, or candidate who, incurs additional expenditure as a result of any provision of, or made under, this Act, and

(b) make payments in accordance with the scheme.

(2) Claims for compensation must be made in accordance with the scheme.

(3) The scheme may provide that in the case of a candidate for a registered political party any payment of compensation may be made to that party rather than to the candidate.

(4) The Secretary of State's expenditure under this section is to be paid out of money provided by Parliament.

(5) "Registered political party" has such meaning as may be specified in the scheme.

7 Consequential provision

(1) The Secretary of State may by order make such consequential, transitional or supplemental provision as he considers appropriate as a result of any provision of, or made under, this Act.

(2) An order may, in particular, amend any provision of, or made under, an enactment or modify the application of such a provision.

(3) The power to make an order is exercisable by statutory instrument.

(4) A statutory instrument made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

8 Short Title

This Act may be cited as the Elections Act 2001.

SCHEDULE

NORTHERN IRELAND: MODIFICATION OF ELECTION PROVISIONS

PART 1

PARLIAMENTARY ELECTIONS RULES

Introduction

- 1 Where the poll at a parliamentary election is to be taken with the poll at a local election in Northern Ireland, Schedule 1 to the Representation of the People Act 1983 (c. 2) (parliamentary elections rules) is amended as follows.

Ballot papers

- 2 In rule 19(2) after paragraph (d) insert-

"(e) must be of a different colour from that of any ballot papers used at an election the poll for which is taken together with the poll for the

parliamentary election."

Notice of poll

- 3 In rule 23 after paragraph (2) insert-

"(2A) The notice published under paragraph (2)-

(a) must state that the poll at the parliamentary election is to be taken together with the poll at a local election;

(b) must specify the relevant district council."

Official poll cards

- 4 In rule 28 after paragraph (3) insert-

"(3A) An official poll card issued under this rule may be combined with an official poll card issued at a local election."

Equipment of polling stations

- 5 (1) Rule 29 is amended as follows.

(2) In paragraph (4) for "inside and outside every polling station" substitute "outside every polling station and in every compartment of every polling station."

- (3) After paragraph (4) insert-

"(4A) The notice referred to in paragraph (4)-

(a) must clearly indicate the election to which it relates;

(b) must be printed on paper of the same colour as the ballot papers (other than tendered ballot papers) used at the election to which it

relates."

(4) Omit paragraph (5).

Questions to be put to voters

- 6 In rule 35 in question (ii) in each of paragraphs (1)(a) and (1)(b) and in the second question in paragraph (2) after "at this" insert "parliamentary".

Voting procedure

- 7 In rule 37 after paragraph (3) insert-

"(4) The same copy of the register of electors may be used under paragraph (1) above for each election.

(5) One mark may be placed in that register under paragraph (1)(d) or in the list of proxies under paragraph (1)(e) to denote that a ballot paper has been received in respect of each election.

(6) If a ballot paper is issued in respect of only one election a different mark must be placed in the register or list (as the case may be) so as to identify the election in respect of which the ballot paper is issued."

Votes marked by presiding officer

- 8 In rule 38 at the end insert-

"(3) The same list may be used for each election.

(4) If it is, an entry in the list must be taken to mean that the ballot papers were marked in pursuance of this rule in respect of each election

unless the list identifies the election at which the ballot paper was so marked."

Voting by persons with disabilities

9 In rule 39 after paragraph (4) insert-

"(4A) The same list may be used for each election.

(4B) If it is, an entry in the list must be taken to mean that the votes were given in accordance with this rule in respect of each election unless the list identifies the election at which the vote was so given."

Tendered ballot papers

10 In rule 40 after paragraph (3) insert-

"(3A) The same list may be used for each election.

(3B) If it is, an entry in the list must be taken to mean that the tendered ballot papers were marked in respect of each election unless the list identifies the election at which a tendered ballot paper was marked."

Procedure on close of poll

11 (1) Rule 43 is amended as follows.

(2) After paragraph (1) insert-

"(1A) Separate packets must be made up in respect of each election for the purpose of each of subparagraphs (b), (c) and (e) of paragraph (1)."

(3) In paragraph (3) after "presiding officer" insert "separately for the purposes of each election".

Ballot papers in wrong box

12 After rule 46 insert-

"Ballot papers in wrong box

46A (1) The returning officer may make arrangements for-

(a) ballot boxes for the parliamentary election to be opened and any ballot papers for the local election to be taken out;

(b) those ballot papers to be taken into account for the purposes of the local election;

(c) ballot boxes for the local election to be opened and any ballot papers for the parliamentary election to be taken out;

(d) those ballot papers to be taken into account for the purposes of the parliamentary election.

(2) Paragraph (1) applies notwithstanding anything else in these rules or the local elections rules.

(3) Nothing in these rules or the local elections rules requires the counting agents to be given facilities for overseeing the proceedings mentioned in paragraph (1)(a) or (c)."

Countermand or abandonment of poll on death of candidate

13 (1) Rule 60 is amended as follows.

(2) After paragraph (1) insert-

"(1A) Neither the countermand of the poll at the parliamentary election nor the direction that that poll be abandoned affects the poll at the local election."

(3) For paragraph (2) substitute-

"(2) If the poll at the parliamentary election is abandoned because of a candidate's death-

(a) no further ballot papers at that election must be delivered in any polling station;

(b) at the close of the poll for the local election the presiding officer must comply with the requirements of rule 43 (as amended by the Schedule to the Elections Act 2001) as if the poll at the parliamentary election had not been abandoned;

(c) the returning officer must dispose of ballot papers used at the parliamentary election and other documents in his possession as he is required to do on the completion in due course of the counting of the votes,

but this is subject to paragraph (2A).

(2A) In a case falling within paragraph (2)-

(a) a ballot paper account for the parliamentary election need not be prepared or verified;

(b) the returning officer, having separated the ballot papers relating to the local election, must take no step or further step for the counting of the ballot papers used at the parliamentary election or of the votes;

(c) the returning officer must seal up all of those ballot papers whether the votes on them have been counted or not;

(d) it is not necessary to seal up counted and rejected ballot papers in separate packets."

PART 2

LOCAL ELECTIONS RULES

Introduction

- 14 Where the poll at a local election is to be taken with the poll at a parliamentary election in Northern Ireland, Schedule 5 to the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (local elections rules) is amended as follows.

Ballot papers

- 15 In rule 16(2) after paragraph (d) insert-

"(e) must be of a different colour from that of any ballot papers used at an election the poll for which is taken together with the poll for the local election."

Notice of poll

- 16 In rule 20 after paragraph (2) insert-

"(3) The notice published under paragraph (2)-

- (a) must state that the poll at the local election is to be taken together with the poll at a parliamentary election;
- (b) must specify the relevant parliamentary constituency."

Postal ballot papers

- 17 In rule 21(1) after "identity in the" insert "relevant".

Official poll cards

- 18 In rule 25 after paragraph (3) insert-

"(3A) An official poll card issued under this rule may be combined with an official poll card issued at a parliamentary election."

Equipment of polling stations

- 19 In rule 26 after paragraph (4) insert-

"(4A) The notice referred to in paragraph (4)-

- (a) must clearly indicate the election to which it relates;
- (b) must be printed on paper of the same colour as the ballot papers (other than tendered ballot papers) used at the election to which it relates."

Questions to be put to voters

- 20 In rule 32 in question (ii) of each of paragraphs (1)(a) and (1)(b) and in the second question in paragraph (2) after "at this" insert "local".

Voting procedure

21 In rule 34 after paragraph (9) insert-

"(10) The same copy of the register of electors may be used under paragraph (1) for each election.

(11) One mark may be placed in that register under paragraph (1)(d) or in the list of proxies under paragraph (1)(e) to denote that a ballot paper has been received in respect of each election.

(12) If a ballot paper is issued in respect of one election only a different mark must be placed in the register or list (as the case may be) so as to identify the election in respect of which the ballot paper is issued."

Votes marked by presiding officer

22 In rule 35 at the end insert-

"(4) The same list may be used for each election.

(5) If it is, an entry in the list must be taken to mean that the ballot papers were marked in pursuance of this rule in respect of each election unless the list identifies the election at which the ballot paper was so marked."

Voting by persons with disabilities

23 In rule 36 after paragraph (4) insert-

"(4A) The same list may be used for each election.

(4B) If it is, an entry in the list must be taken to mean that the votes were given in accordance with this rule in respect of each election unless

the list identifies the election at which the vote was so given."

Tendered ballot papers

24 In rule 37 after paragraph (6) insert-

"(6A) The same list may be used for each election.

(6B) If it is, an entry in the list must be taken to mean that the tendered ballot papers were marked in respect of each election unless the list identifies the election at which a tendered ballot paper was marked."

Procedure on close of poll

25 (1) Rule 41 is amended as follows.

(2) After paragraph (1) insert-

"(1A) Separate packets must be made up in respect of each election for the purpose of each of subparagraphs (b), (c) and (e) of paragraph (1)."

(3) In paragraph (3) after "presiding officer" insert "separately for the purposes of each election".

Time for counting votes

26 (1) Rule 43 is amended as follows.

(2) In paragraph (1) for "morning on the day after" substitute "morning on the second day after".

(3) After paragraph (1) insert-

"(1A) For the purpose of

determining the day for counting under paragraph (1) a Saturday, a Sunday and a public holiday must be disregarded."

Ballot papers in wrong box

27 After rule 53 insert-

"Ballot papers in wrong box

53A (1) The returning officer may make arrangements for-

(a) ballot boxes for the local election to be opened and any ballot papers for the parliamentary election to be taken out;

(b) those ballot papers to be taken into account for the purposes of the parliamentary election;

(c) ballot boxes for the parliamentary election to be opened and any ballot papers for the local election to be taken out;

(d) those ballot papers to be taken into account for the purposes of the local election.

(2) Paragraph (1) applies notwithstanding anything else in these rules or the parliamentary elections rules.

(3) Nothing in these rules or the parliamentary elections rules requires the counting agents to be given facilities for overseeing the proceedings mentioned in paragraph (1)(a) or (c)."

Countermand or abandonment of poll on death of candidate

28 (1) Rule 61 is amended as follows.

(2) After paragraph (1) insert-

"(1A) Neither the countermand of the poll at the local election nor the direction that that poll be abandoned affects the poll at the parliamentary election."

(3) For paragraph (2) substitute-

"(2) If the poll at the local election is abandoned because of a candidate's death-

(a) no further ballot papers at that election must be delivered in any polling station;

(b) at the close of the poll for the parliamentary election the presiding officer must comply with the requirements of rule 41 (as amended by the Schedule to the Elections Act 2001) as if the poll at the local election had not been abandoned;

(c) the returning officer must dispose of ballot papers used at the local election and other documents in his possession as he is required to do on the completion in due course of the counting of the votes, but this is subject to paragraph (2A).

(2A) In a case falling within paragraph (2)-

(a) a ballot paper account for the local election need not be prepared or verified;

(b) the returning officer, having separated the ballot papers relating to the parliamentary election, must

take no step or further step for the counting of the ballot papers used at the local election or of the votes;

(c) the returning officer must seal up all of those ballot papers whether the votes on them have been counted or not;

(d) it is not necessary to seal up counted and rejected ballot papers in separate packets."

Forms

- 29 (1) In the Arrangement of Rules, in the Appendix of Forms, after the entry for Form 5 insert-

"5A. Declaration of Identity
(Combined Polls)."

- (2) In the Appendix of Forms after Form 5 (declaration of identity) insert-

"5A. Declaration of identity (combined polls) (rule 21)

(for use when a parliamentary poll is combined with a local poll)

Front of form

ELECTION OF DISTRICT
COUNCILLORS

DECLARATION OF IDENTITY

To be returned with the *[insert colour of ballot paper]* coloured ballot paper No .

I hereby declare that I am the person to whom the *[insert colour of ballot paper]* coloured ballot paper numbered as above was sent.

Voter's signature

The voter, who is personally known to me,
has signed this declaration in my presence.

Witness's signature

Name of witness (WRITE CLEARLY)

Address of witness (WRITE CLEARLY)

SEE INSTRUCTIONS ON THE BACK OF
THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. *You are required to do this even if you have already signed a similar declaration of identity in respect of another election to be held on the same day.* That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. You should place the figure 1 opposite the name of the candidate for whom you wish to vote and in addition you may, if you wish, place the figure 2 opposite the name of the candidate of your second choice, the figure 3 opposite the name of the candidate of your third choice and so on in the order of your preference. You may indicate by figures as many or as few preferences as you wish.

3. The figure or figures should be placed in the spaces provided at the left-hand side of the paper opposite the name of the candidate for whom you intend it. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

4. In no circumstances write anything else on the paper; if you do your vote may be invalid.

5. Different colours are used for the ballot papers for each election. Each ballot paper has its own ballot paper envelope (the smaller envelope marked "A"), declaration of identity and covering envelope (the larger envelope marked "B"). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets, each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows-

- (a) place each ballot paper in the correct smaller envelope and seal it;
- (b) put that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. Ballot papers must be received by the returning officer not later than the close of poll.

6. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the *same election*. You are entitled to vote at different elections which are held on the same day.

7. At this election you cannot vote in person at a polling station, even if you receive an official poll card.

8. If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper, the declaration of identity and the envelopes marked "A" and "B".

Remember that there is little time available if a fresh postal ballot paper is to be issued and counted."

PART 3

POSTAL BALLOTS

Parliamentary elections

30 (1) Part V of the Representation of the People (Northern Ireland) Regulations 2001 (S.I. 2001/400) is amended as follows.

(2) In regulation 66 (form of declaration of identity) for "in Form G" substitute-

"(a) in Form G at a parliamentary election where the poll is taken alone;

(b) in Form J at a parliamentary election where the poll is taken together with the poll at a local election."

(3) In regulation 71 (procedure on issue of postal ballot paper) after paragraph (4) insert-

"(5) Where the poll at one election is taken with the poll at another election, the colour of the postal ballot paper must also be marked on the declaration of identity sent with that paper."

(4) In regulation 73 (envelopes) after paragraph (3) insert-

"(4) Where polls are taken together-

(a) the envelope referred to in paragraph (2) must also be marked "Covering envelope for the [*insert colour of ballot paper*] coloured ballot paper", and

(b) on the envelope referred to in paragraph (3) after the words "Ballot paper envelope"

there must be added "for the
[insert colour of ballot paper]
coloured ballot paper".

(5) In Schedule 3 (Forms) in the
Arrangement of Forms after the entry relating
to Form H insert-

"Form J: Declaration of identity
(combined polls)".

(6) In that Schedule after Form H insert-

"Regulation 66(b)

Form J: DECLARATION OF
IDENTITY (COMBINED POLLS)

*(for use when a parliamentary poll is
combined with a local poll)*

Front of form

REPRESENTATION OF THE
PEOPLE ACTS

DECLARATION OF IDENTITY

To be returned with the *[insert colour
of ballot paper]* coloured ballot paper
No .

I hereby declare that I am the person to
whom the *[insert colour of ballot
paper]* coloured ballot paper
numbered as above was sent.

Voter's signature

The voter, who is personally known to
me, has signed this declaration in my
presence.

Witness's signature

Name of witness (WRITE CLEARLY)

Address of witness (WRITE

CLEARLY)

SEE INSTRUCTIONS ON THE
BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. *You are required to do this even if you have already signed a similar declaration of identity in respect of another election to be held on the same day.* That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. Vote for one candidate only. Put no other mark on the ballot paper or your vote may not be counted.

3. Mark a cross (✗) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

4. Different colours are used for the ballot papers for each election. Each ballot paper has its own ballot paper envelope (the smaller envelope marked "A"), declaration of identity and covering envelope (the larger envelope marked "B"). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets,

each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows-

- (a) place each ballot paper in the correct smaller envelope and seal it;
- (b) put that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. Ballot papers must be received by the returning officer not later than the close of poll.

5. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the *same election*. You are entitled to vote at different elections which are held on the same day.

6. At this election you cannot vote in person at a polling station, even if you receive an official poll card.

7. If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper, the declaration of identity and the envelopes marked "A" and "B". Remember that there is little time available if a fresh postal ballot paper is to be issued and counted."

Local elections

31 (1) Part III of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) is amended as follows.

(2) In paragraph 6 (marking of postal ballot paper) at the end insert-

"(3) Where the poll at one election is taken with the poll at another election, the colour of the postal ballot paper shall also be marked on the declaration of identity sent with that paper."

(3) The text of paragraph 8 (ballot paper envelope) becomes sub-paragraph (1) of that paragraph and at the end insert-

"(2) Where polls are taken together-

(a) the covering envelope must also be marked "Covering envelope for the *[insert colour of ballot paper]* coloured ballot paper", and

(b) on the ballot paper envelope after the words "Ballot paper envelope" there must be added "for the *[insert colour of ballot paper]* coloured ballot paper"."

PART 4

GENERAL

- 32 The provision which may be made under section 15(5) of the Representation of the People Act 1985 (c. 50) (power of regulations to make provision in connection with the combining of polls at different elections) includes provision replacing or modifying Part 1 or paragraph 30 of this Schedule.
- 33 The provision which may be made under section 84(1) of the Northern Ireland Act 1998 (c. 47) (power to make certain provision in relation to local elections in Northern Ireland) includes provision replacing or modifying Part 2 or paragraph 31 of this Schedule.
- 34 Any power to revoke, amend or re-enact the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) or the Representation of the People (Northern Ireland) Regulations 2001

(S.I. 200/400) includes a power to revoke, amend or re-enact that Order or those Regulations as amended by Part 3 of this Schedule.