

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES)
REGULATIONS 2007

2007 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These draft Regulations provide for elections under the Local Government Act 2000 in relation to elected mayors of county, district and London borough councils in England and county and county borough councils in Wales.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Regulations are made under section 44 of the Local Government Act 2000. They revoke and replace the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002 (SI 2002/185) (“the 2002 Regulations”); they implement by incorporating, with appropriate alterations and exceptions, changes made by the Electoral Administration Act 2006 (c.22) for such Mayoral elections.

5. Extent

5.1 These Regulations apply to England and Wales.

6. European Convention on Human Rights

6.1 The Minister of State, Bridget Prentice, MP has made the following statement regarding Human Rights:

In my view the provisions of the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 are compatible with the Convention Rights.

7. Policy background

7.1 The procedural rules for conducting a mayoral election for an elected Mayor under the Local Government Act 2000 are contained in The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002. As a result of the changes introduced by the Electoral Administration Act 2006 (c.22) which received Royal Assent on 11 July 2006 we have reviewed those Regulations.

7.2 These Regulations come into force on the day after they are made but will only apply to a mayoral election held on or after 3 May 2007. They will replace the 2002 Regulations.

7.3 These Regulations largely re-enact provisions of the 2002 Regulations, with some minor changes and correction of minor errors. The principal changes to these Regulations are to implement the changes resulting from the Electoral Administration Act 2006. Given the large number of changes needed and for the ease of access to these Regulations by Returning Officers and electoral administrators we have replaced the 2002 Regulations rather than amend them.

7.4 As a result of this approach, we asked the Electoral Commission to make specific recommendations on the limit set for mayoral election expenses, in the 2002 Regulations should be increased as required by section 44 (3A) and (3B) of the Local Government Act 2000, (inserted by the Political Parties, Elections and Referendums Act 2000.) The Commission recommended that the limits be increased to allow for inflation. The new limits are a maximum amount of £2,362 together with an additional 5.9p for every entry in the register of electors to be used at the election.

7.5 On consultation of the other detailed provisions contained in these Regulations, the Electoral Commission were consulted on 22 December 2006. The Rules for the conduct of the election are based on the rules contained in the Local Elections (Principal Areas) (England and Wales) Rules 2006 (SI 2006/3304), Throughout May 2005, Advisory Groups made up of key stakeholders with practical and in-depth knowledge of running elections to provide feedback on the appropriateness of the content of the principal area rule. These Regulations themselves applied the detailed Rule changes made to the Parliamentary Elections Rules contained in Schedule 1 of The Representation of the People Act 1983, as amended by the Electoral Administration Act 2006, to the conduct of elections of councillors.

7.6 Many of the proposals contained in the Electoral Administration Act 2006 emerged from a series of detailed studies and consultation carried out by the Electoral Commission with the electoral community post 2001 General Election. The Electoral Commission produced several reports and recommendations changes to the administration of elections, culminating in two main reports: *'Voting for change'*, published in June 2003 and *'Delivering democracy? The future of postal voting'* published in December 2004. These studies and reports considered or made recommendations relevant to the conduct of local elections as well as Parliamentary elections. The Government's responses to these reports was published and announced as command papers in December 2004.

7.7 Following the Birmingham elections court cases and allegations of fraud at the 10 June 2004 local government elections, the Government undertook urgent policy discussions with stakeholders on a range of proposals aimed at safeguarding the integrity of the electoral system. A Government policy discussion paper was published on 25 May 2005 and a series of discussion meetings were held with the Association of Electoral Administrators, other returning officers and administrators, suppliers of electoral services and political parties. Over 160 responses were received on the proposals, by the deadline of 10 June. On the basis of comments and responses received during the discussion, the Government recommended a package of additional measures which also took into account the Electoral Commission's recommendations in: *'Securing the Vote'* published in May 2005.

7.8 On 11 October 2005, as well as introducing the Electoral Administration Bill, the Government also published a report: *'Electoral Administration – legislative proposals resulting from consideration of the policy discussion paper published on 25 May 2005'* which set out its considerations to the policy paper and in particular the measures it aimed to have in place for local government elections in May 2006; and the measures requiring primary legislation being taken forward in the Electoral Administration Bill.

7.9 On the detailed provisions, Regulation 3 and Schedules 1 and 2 provide for the conduct of a mayoral election which is not combined with any other polls. The changes which reflect the 2006 Act are summarised at paragraph 7.14. The Mayoral Election Rules, as contained in Schedule 1, are similar to those which apply in relation to the election of councillors at local authority elections. However, each candidate's nomination paper must be subscribed by 30 electors, and a deposit of £500 must be paid. If there are three or more mayoral candidates, the elected mayor will be returned under the supplementary vote system, for which provision is made in section 42(3) of, and Schedule 2 to, the 2000 Act. The supplementary vote system is also used for the election of the Mayor of London under the Greater London Authority Act 1999 where there are three or more candidates.

7.10 Regulation 3 and Schedule 2 apply other electoral legislation, with modifications, to facilitate the conduct of mayoral elections.

7.11 Regulation 4 makes provision for the conduct of mayoral elections when combined with other polls. The rules for conducting such elections are again set out in full (the Mayoral Elections (Combination of Polls) Rules), in Schedule 3.

7.12 Regulation 5 provides for mayoral elections to be questioned using the same procedures (in Part 3 of the Representation of the People Act 1983 (c. 3)) that apply to the questioning of local authority elections.

7.13 Regulation 6 and Schedule 4 provide for the free delivery of election addresses. The provisions are generally comparable to those that apply at Greater London Authority elections. Candidates at mayoral elections who wish to have their election addresses included in the election booklet prepared and distributed by the returning officer are required to pay a contribution of such reasonable amount as the returning officer may determine towards the expenses incurred by the returning officer in printing the election booklet.

7.14 The provisions of the Mayoral Elections Rules and the Mayoral Elections (Combination of Polls) Rules (collectively, "the Rules") which reflect changes made by the 2006 Act include the following:

- changes made to nomination procedures - candidates may use their common names on nomination forms and papers; the rules on the use of authorised descriptions by candidates standing on behalf of registered political parties are amended to reflect amendments made to the Political Parties, Elections and Referendums Act 2000 (c. 41) (in sections 28A and 28B) and Returning officers will be able to correct minor errors on nomination papers.];
- reflect new security measures introduced by the 2006 Act - security markings on ballot papers are provided for; unique identifying marks requirement for ballot papers; counterfoils on ballot papers are replaced by corresponding number lists; and requirements are imposed requiring postal voters and postal proxies to provide both their signature and date of birth when returning postal ballot papers;
- reflect alterations as to the circumstances in which a person may give a tendered vote;
- reflect new requirements introduced as to the information and accessibility of information to be provided by returning officers to electors;

- reflect changes made as to the persons who may be admitted to a polling station and the count to observe elections;
- amendments are made to provide for transmission of information to a presiding officer of alterations to the electoral register taking effect on the day of the poll;
- amendments consequential upon the introduction of a scheme for the anonymous registration of certain electors which come into force on 1 June 2007 are made;
- reflect changes made regarding the retention and inspection of election documents after the poll; and
- Make amendments to existing forms and introduce new forms based on those prescribed in the Representation of the People (England and Wales) (Amendment) (No.2) Regulations 2006 (SI No. 2006/291) have been appended to the Rules with the relevant modifications for mayoral elections held under the Local Government 2000.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Any queries about the content of this memorandum should be addressed to: Shashi Langham at the Department for Constitutional Affairs, e-mail: Shashi.Langham@dca.gsi.gov.uk