

EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES)
(AMENDMENT) REGULATIONS 2014

2014 No. [DRAFT]

1 1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations make changes to the rules governing the conduct of local mayoral elections in England and Wales. In doing so they apply or copy electoral conduct provisions in the Electoral Registration and Administration Act 2013 (c.6) (the “ERA Act”) and associated secondary legislation for the purposes of those elections.

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

3.1 None.

4. Legislative Context

4.1 These Regulations amend the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024) (the “2007 Regulations”).

4.2 Many of the provisions in the Regulations replicate, for mayoral elections, amendments that have been made to the conduct of UK Parliamentary elections by the ERA Act or that will be made by the draft Representation of the People (England and Wales) (Description of Electoral Registers and Amendment) Regulations 2013 (the “draft 2013 Regulations”).

4.3 The Regulations are part of a wider package of Regulations and Statutory Instruments which make various changes to the rules for conducting elections and referendums and include the draft 2013 Regulations, the European Parliamentary Elections (Amendment) Regulations 2013 (S.I. 2013/2876) and the draft Neighbourhood Planning (Referendums) (Amendment) Regulations 2014.

4.4 The Regulations revoke the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2012 (S.I. 2012/2059) and the amendments made to the 2007 Regulations by those Regulations. This revocation is necessary because amendments made to the Local Government Act 2000 by the Localism Act 2011 affected the power in that Act to make provision for mayoral elections. Those amendments which are still relevant to the 2007 Regulations are remade in these Regulations.

5. Territorial Extent and Application

5.1 The Regulations extend to England and Wales.

6. **European Convention on Human Rights**

6.1 Greg Clark, the Minister of State for Cities and the Constitution, has made the following statement regarding Human Rights:

“In my view the provisions of the Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014 are compatible with the Convention rights.”

7. **Policy background**

7.1 The Regulations make provision for a number of changes to the conduct of mayoral elections. Many of these changes have been made for parliamentary elections by Part 2 of the ERA Act and the draft 2013 Regulations.

7.2 These changes are being made now, in conjunction with changes to other electoral legislation, so they can have effect at polls that take place on 22 May 2014 and thereafter. They are designed to improve the accessibility and security of the voting process, and implement a number of recommendations which have been made by (amongst others) the Electoral Commission and the Association of Electoral Administrators.

7.3 These Regulations make the following changes to the 2007 Regulations:

- Changing the timetable for proceedings at the election so that deadlines are consistent with other elections, facilitating the early despatch of postal votes when elections are combined. In particular, the deadlines for candidates' nominations and withdrawals become 4pm on the nineteenth day before polling day, and the deadline for the publication of the statement of persons nominated becomes 4pm on the eighteenth day before polling day. These changes make the timetable for local mayoral elections more consistent with the revised timetables for UK Parliamentary and European Parliamentary elections.
- Enabling Police Community Support Officers to enter polling stations and counting venues under the same conditions as police constables in England and Wales. This ensures that the changes made by the ERA Act to the parliamentary elections rules are reflected for mayoral elections.
- Providing that voters waiting in a queue at the close of poll (i.e. at 10pm on polling day) for the purpose of voting may be issued with a ballot paper, and that those in the queue for the purpose of returning a postal ballot paper or voting statement may return it.
- Updating voting forms for accessibility reasons. The intention is to ensure that the forms which voters use at elections are as clear and easy to use as possible to improve the voter's experience and encourage more effective engagement in the voting process. The Regulations also make amendments to the provisions on consent to nomination and the interpretation provisions to ensure that statutory references remain up to date.
- In addition, changes made by the draft 2013 Regulations relating to postal and proxy voting will apply to mayoral elections by virtue of regulation 3 of the

2007 Regulations, under which relevant provisions apply to mayoral elections as they do to local government elections

8. Consultation outcome

- 8.1 The Electoral Commission has been consulted on this instrument as required by sections as required by sections 9HE(4) and 44(3A) the Local Government Act 2000 (c.22). In addition, we have consulted informally with representatives of the Association of Electoral Administrators, the Society of Local Authority Chief Executives and other interested parties (in particular, SCOPE on the design of the forms). In addition, the Cabinet Office has undertaken a programme of public user testing of the revised voting forms.
- 8.2 The Electoral Commission's response welcomed the Government's approach to the updating of the conduct rules for local mayoral elections.
- 8.3 The Commission has raised concerns around the drafting of the close of poll provisions, specifically in relation to the return of postal votes. The Commission raised identical concerns in relation to the European Parliamentary Elections (Amendment) Regulations 2013 (SI 2013/2876) and the draft Electoral Registration and Administration Act 2013 (Commencement No. 4) Order 2013.
- 8.4 The Electoral Commission is concerned that the provisions could risk creating an open ended period for the delivery of postal ballot papers and statements to a Returning Officer or their staff. The Government's view is that that this is a slim, near impossible, eventuality and genuine concerns can be adequately and more appropriately dealt with in the guidance that the Electoral Commission will produce for Returning Officers on close of poll arrangements.
- 8.5 The Society of Local Authority Chief Executives who represent Returning Officers, and the Association of Electoral Administrators, support the legislation and have welcomed the flexibility the drafting provides.

9. Guidance

- 9.1 The Electoral Commission will continue to issue guidance relating to the conduct of elections. They will issue specific guidance on the new arrangements for mayoral elections.

10. Impact

- 10.1 A regulatory impact assessment has not been prepared for this instrument because no significant impacts on the private, public or voluntary sectors are foreseen.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 The Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral

administration. Furthermore, the Law Commission is undertaking a review of electoral legislation. It issued a scoping report on 11 December 2012 and expects to issue a consultation on reforming the law in late 2014.

13. **Contact**

Fiona Willan at the Cabinet Office, tel 020 7271 6442: email: fiona.willan@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.