



# Local Government Act 2000

## 2000 CHAPTER 22

### PART II

[<sup>F1</sup>LOCAL AUTHORITIES IN WALES: ARRANGEMENTS] WITH RESPECT TO EXECUTIVES ETC.

*Elected mayors etc.*

#### 39 Elected mayors etc.

(1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority’s area in accordance with the provisions made by or under this Part.

<sup>F1</sup>(2) .....

(3) An elected mayor of a local authority <sup>F2</sup>... is to be entitled to the style of “mayor” or “maer”.

(4) In this Part “elected executive member” means an individual elected as a member of a local authority executive by the local government electors for the authority’s area in accordance with the provisions made by or under this Part, but does not include an elected mayor.

[<sup>F3</sup>(5A) A reference in any enactment (whenever passed or made) to—

- (a) a member of a local authority, or
- (b) a councillor of a local authority,

does not include a reference to an elected mayor of the authority.

(5B) But subsection (5A) is subject to—

- (a) regulations made by the [<sup>F4</sup>Welsh Ministers] under this paragraph which provide that an elected mayor is to be treated as member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and

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(b) any other contrary intention that appears in any enactment (whenever passed or made).

(5C) [<sup>F5</sup>Section 21(1A) of the Local Government Act 1972 is] not to be taken to indicate any contrary intention for the purposes of subsection (5B)(b).]

[<sup>F6</sup>(5D) A statutory instrument containing regulations made under subsection (5B)(a) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]

<sup>F7</sup>[<sup>F8</sup>(6) . . . . .

(7) The term of office of an elected mayor of a local authority is to be four years.

(8) This section is subject to regulations under section 41.]

#### Textual Amendments

- F1** S. 39(2) repealed (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 3 para. 56(2), **Sch. 25 Pt. 4**; [S.I. 2012/628](#), art. 2(b)(c)(i)(i)
- F2** Words in s. 39(3) repealed (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 3 para. 56(3), **Sch. 25 Pt. 4**; [S.I. 2012/628](#), art. 2(b)(c)(ii)(i)
- F3** S. 39(5A)-(5C) substituted for s. 39(5) (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 66(2)**, 245(2)
- F4** Words in s. 39(5B)(a) substituted (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 56(4)**; [S.I. 2012/628](#), art. 2(b)(i)
- F5** Words in s. 39(5C) substituted (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 56(5)**; [S.I. 2012/628](#), art. 2(b)(i)
- F6** S. 39(5D) inserted (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 3 para. 56(6)**; [S.I. 2012/628](#), art. 2(b)(i)
- F7** S. 39(6) repealed (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), Sch. 3 para. 56(7), **Sch. 25 Pt. 4**; [S.I. 2012/628](#), art. 2(b)(c)(iii)(i)
- F8** S. 39(6)-(8) substituted for s. 39(6) (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 66(3)**, 245(2)

#### Commencement Information

- I1** S. 39 wholly in force at 28.7.2001; s. 39 not in force at Royal Assent see s. 108; s. 39 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), **arts. 1(3)**, 2(b); s. 39(1)(2)(4)-(6) in force at 26.10.2000 in relation to England except in so far as already in force by [S.I. 2000/2849](#), **arts. 1(3)**, 2(d); s. 39(1)(3)-(5) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**; s. 39 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 40 Election as elected mayor and councillor.

- (1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy shall arise in the office of councillor.
- (2) If the person who is returned at an election (“the mayoral election”) as the elected mayor of a local authority—
- (a) is a councillor of the authority, and
  - (b) was returned as such a councillor at an election held at an earlier time than the mayoral election,

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a vacancy shall arise in the office of councillor.

- (3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.
- (4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if he is a candidate in both such elections and he is returned both as the elected mayor and as a councillor.

#### 41 Time of elections etc.

The [<sup>F9</sup>Welsh Ministers] may by regulations make provision—

- (a) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place,
- (b) as to the intervals between elections for the return of elected mayors or elected executive members,
- (c) as to the term of office of elected mayors or elected executive members, and
- (d) as to the filling of vacancies in the office of elected mayor or elected executive member.

##### Textual Amendments

**F9** Words in s. 41 substituted (9.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 3 para. 57](#); [S.I. 2012/628](#), art. 2(b)(i)

##### Commencement Information

**I2** S. 41 wholly in force at 1.11.2000; s. 41 not in force at Royal Assent see s. 108; s. 41 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), 2(a); s. 41 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### 42 Voting at elections of elected mayors.

- (1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—
- (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and
  - (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates.
- (2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.
- (3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

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**Modifications etc. (not altering text)**

- C1** S. 42(2) applied by SI 2002/185 Sch. 3 rule 48(1) (as substituted (13.3.2004) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/225\)](#), regs. 1, 2(7), [Sch.](#))

**43 Entitlement to vote.**

- (1) The persons entitled to vote as electors at an election for the return of an elected mayor or elected executive member are those who on the day of the poll—
- (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
  - (b) are registered in the register of local government electors at an address within the authority's area.
- (2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

**44 Power to make provision about elections.**

- (1) The Secretary of State [<sup>F10</sup>or the [<sup>F11</sup>Minister for the Cabinet Office]] may by regulations make provision as to—
- (a) the conduct of elections for the return of elected mayors or elected executive members, and
  - (b) the questioning of elections for the return of elected mayors or elected executive members and the consequences of irregularities.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
- (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls at elections for the return of elected mayors and other elections (including elections for the return of elected executive members), and
  - (e) for the combination of polls at elections for the return of elected executive members and other elections (including elections for the return of elected mayors).
- (3) Regulations under this section may—
- (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,
  - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members, and

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- (c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

<sup>F12</sup>[(3A) Before making any regulations under this section, the Secretary of State [<sup>F13</sup>or the [<sup>F14</sup>Minister for the Cabinet Office]] shall consult the Electoral Commission.

(3B) In addition, the power of the Secretary of State [<sup>F15</sup>or the [<sup>F16</sup>Minister for the Cabinet Office]] to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) shall be exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State [<sup>F15</sup>or the [<sup>F16</sup>Minister for the Cabinet Office]] considers that it is expedient to exercise that power in consequence of changes in the value of money.]

(4) No return of an elected mayor or elected executive member at an election is to be questioned except by an election petition under the provisions of Part III of the <sup>M1</sup>Representation of the <sup>M2</sup>People Act 1983 as applied by or incorporated in regulations under this section.

#### Textual Amendments

- F10** Words in s. 44(1) inserted (22.6.2015) by [The Chancellor of the Duchy of Lancaster Order 2015 \(S.I. 2015/1376\)](#), art. 1(2), **Sch. 2 para. 8(3)** (with art. 9)
- F11** Words in s. 44(1) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 13(c)** (with art. 12)
- F12** S. 44(3A)(3B) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(2)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (with Sch. 2 Pt. II para. 2)
- F13** Words in s. 44(3A) inserted (22.6.2015) by [The Chancellor of the Duchy of Lancaster Order 2015 \(S.I. 2015/1376\)](#), art. 1(2), **Sch. 2 para. 8(3)** (with art. 9)
- F14** Words in s. 44(3A) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 13(c)** (with art. 12)
- F15** Words in s. 44(3B) inserted (22.6.2015) by [The Chancellor of the Duchy of Lancaster Order 2015 \(S.I. 2015/1376\)](#), art. 1(2), **Sch. 2 para. 8(3)** (with art. 9)
- F16** Words in s. 44(3B) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 13(c)** (with art. 12)

#### Modifications etc. (not altering text)

- C2** S. 44 functions made exercisable concurrently (18.8.2010) by [The Lord President of the Council Order 2010 \(S.I. 2010/1837\)](#), arts. 1(2), **3**
- C3** S. 44(4) modified (coming into force in accordance with reg. 1(2) of the amending Regulations) by [Local Authorities \(Mayoral Elections\) \(England and Wales\) Regulations 2007 \(S.I. 2007/1024\)](#), regs. 1(2), **5** (as amended (6.4.2014) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) \(Amendment\) Regulations 2014 \(S.I. 2014/370\)](#), regs. 1(2), **4** (with reg. 1(2)))

#### Commencement Information

- I3** S. 44 wholly in force at 28.7.2001; s. 44 not in force at Royal Assent see s. 108; s. 44 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), arts. **1(3)**, **2(b)**; s. 44 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), art. **2**; s. 44 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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#### **Marginal Citations**

**M1** 1983 c. 2.

**M2** 1983 c. 2.

**Status:**

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