



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 2

ELECTORAL ARRANGEMENTS

CHAPTER 1

POWER OF DISTRICT COUNCILS IN ENGLAND TO CHANGE ELECTORAL SCHEME

Power of district councils to revert to partial-council elections

37 Resolution for elections by halves

- (1) A non-metropolitan district council in England that—
 - (a) was formerly subject to a scheme for elections by halves, but
 - (b) is for the time being subject to a scheme for whole-council elections,may resolve that it is to revert to being subject to a scheme for elections by halves.
- (2) For the purposes of this section, a council that is subject to a scheme for whole-council elections was “formerly subject” to a scheme for elections by halves if it was subject to such a scheme at any time in the period beginning with—
 - (a) 1 April 1974, or
 - (b) if later, the date on which the council was created.
- (3) A resolution under this section is referred to in this Chapter as a “resolution for elections by halves”.

38 Resolution for elections by halves: requirements

- (1) A council must comply with this section in passing a resolution for elections by halves.

- (2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- (3) The resolution must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - (b) by a majority of at least two thirds of the members voting on it.
- (4) The council must pass the resolution in a permitted resolution period.
- (5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.
- (6) In this section “permitted resolution period” means the period in 2008, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December.
- (7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

39 Resolution for elections by thirds

- (1) A district council in England that—
 - (a) was formerly subject to a scheme for elections by thirds, but
 - (b) is for the time being subject to a scheme for whole-council elections,
 may resolve that it is to revert to being subject to a scheme for elections by thirds.
- (2) For the purposes of this section, a council that is subject to a scheme for whole-council elections was “formerly subject” to a scheme for elections by thirds if it was subject to such a scheme at any time in the period beginning with—
 - (a) 1 April 1974, or
 - (b) if later, the date on which the council was created.
- (3) A resolution under this section is referred to in this Chapter as a “resolution for elections by thirds”.

40 Resolution for elections by thirds: requirements

- (1) A council must comply with this section in passing a resolution for elections by thirds.
- (2) The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.
- (3) The resolution must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
 - (b) by a majority of at least two thirds of the members voting on it.
- (4) The council must pass the resolution in a permitted resolution period.
- (5) In subsection (3) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.

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- (6) In this section “permitted resolution period” means—
- (a) in relation to a metropolitan district council: the period in 2011, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December;
 - (b) in relation to a non-metropolitan district council: the period in 2008, or in any fourth year afterwards, that starts with the day after that council’s annual meeting and ends with 31 December.
- (7) The Secretary of State may by order provide that a permitted resolution period is to end later than the day determined in accordance with subsection (6).

41 Publicity for resolution

- (1) A council must comply with this section as soon as practicable after passing a resolution for elections by halves or a resolution for elections by thirds.
- (2) The council must produce an explanatory document.
- (3) The council must make the explanatory document—
- (a) available for public inspection at the council’s principal office at all reasonable times, and
 - (b) available to the public by such other means as the council thinks appropriate.
- (4) The council must publicise these matters—
- (a) that the council has resolved to become subject to the new electoral scheme;
 - (b) that the Electoral Commission is to make provision by order about the operation of, and transition to, the new electoral scheme;
 - (c) how the explanatory document is available in accordance with subsection (3);
 - (d) the address of the council’s principal office.
- (5) It is for the council to decide how these matters are to be publicised.
- (6) An explanatory document is a document which sets out details of the new electoral scheme (so far as the details are known at the time the document is prepared).

42 Notice to Electoral Commission

- (1) A council must comply with this section as soon as practicable after passing a resolution for elections by halves or a resolution for elections by thirds.
- (2) The council must give the Electoral Commission notice that it has passed the resolution.

43 Electoral Commission to consider whether electoral review is necessary

- (1) This section applies if the Electoral Commission receive notice under section 42 that a council has passed a resolution for elections by halves or a resolution for elections by thirds.
- (2) As soon as practicable after receiving the notice, the Commission must consider whether to exercise their power under section 13(3) of the Local Government Act 1992 (c. 19) to direct the Boundary Committee to conduct a review of the district in question (or any part of it).

- (3) As soon as practicable after deciding whether or not to direct the Boundary Committee to conduct an electoral review, the Commission must give the council notice of the decision.

44 Electoral Commission to make order for new electoral scheme

- (1) Where the Electoral Commission receive notice under section 42 that a council has passed a resolution, they must—
- (a) in the case of a resolution for elections by halves, make an order for elections by halves in relation to the council (see sections 45 and 46);
 - (b) in the case of a resolution for elections by thirds, make an order for elections by thirds in relation to the council (see sections 47 and 48).
- (2) But the Commission must not make the order—
- (a) before they have decided whether or not to give the Boundary Committee a direction to conduct an electoral review (see section 43(2)), or
 - (b) if they give such a direction, before the Boundary Committee have concluded the review.

45 Order for elections by halves: years in which elections are to be held

- (1) An order for elections by halves in relation to a council must secure that the ordinary elections of councillors of the council are held in years determined in accordance with this section.
- (2) Ordinary elections of the councillors of the council are to be held in—
- (a) the first relevant year after the year in which the Electoral Commission make the order, and
 - (b) each subsequent year for elections by halves.
- (3) In this section—
- “relevant year” means 2011 and every fourth year afterwards;
- “year for elections by halves” means 2012 and every second year afterwards.

46 Orders for elections by halves: councillors to be elected at ordinary elections

- (1) An order for elections by halves in relation to a council must make provision for the election and retirement of councillors in accordance with this section.
- (2) In the case of the ordinary elections held in the year determined in accordance with section 45(2)(a)—
- (a) all of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and
 - (ii) all of the sitting councillors are to retire.
- (3) In the case of ordinary elections held subsequently—
- (a) one half (or as nearly as may be) of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and

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- (ii) the specified sitting councillors are to retire.
- (4) The order must include provision for identifying which councillors are to retire in each year in which ordinary elections are to be held (other than the first), including provision for identifying—
 - (a) the wards affected;
 - (b) the councillors affected within particular wards.
- (5) In this section “specified sitting councillors”, in relation to ordinary elections, means the sitting councillors who are to retire in the year of those elections by virtue of the order.

47 Order for elections by thirds: years in which elections are to be held

- (1) An order for elections by thirds in relation to a council must secure that the ordinary elections of councillors of the council are held in years determined in accordance with this section.
- (2) Ordinary elections of the councillors of the council are to be held in—
 - (a) the first relevant year after the year in which the Electoral Commission make the order, and
 - (b) each subsequent year, unless it is a fallow year.
- (3) In this section—
 - “fallow year” means 2013 and every fourth year afterwards;
 - “relevant year” means—
 - (a) in relation to a metropolitan district council: 2014 and every fourth year afterwards;
 - (b) in relation to a non-metropolitan district council: 2011 and every fourth year afterwards.

48 Order for elections by thirds: councillors to be elected at ordinary elections

- (1) An order for elections by thirds in relation to a council must make provision for the election and retirement of councillors in accordance with this section.
- (2) In the case of the ordinary elections held in the year determined in accordance with section 47(2)(a)—
 - (a) all of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and
 - (ii) all of the sitting councillors are to retire.
- (3) In the case of ordinary elections held subsequently—
 - (a) one third (or as nearly as may be) of the councillors are to be elected;
 - (b) on the fourth day after the elections are held—
 - (i) the councillors elected in those elections are to come into office, and
 - (ii) the specified sitting councillors are to retire.
- (4) The order must include provision for identifying which councillors are to retire in each year in which ordinary elections are to be held (other than the first), including provision for identifying—

- (a) the wards affected;
- (b) the councillors affected within particular wards.

(5) In this section “specified sitting councillors”, in relation to ordinary elections, means the sitting councillors who are to retire in the year of those elections by virtue of the order.

49 Order for elections by halves or elections by thirds: transitional provision

- (1) An order under section 44 (order for elections by halves or for elections by thirds) may include provision about the transition to the council’s new electoral scheme.
- (2) Provision made by virtue of this section may, in particular, include provision for the retirement of some councillors after their initial election at times different from those otherwise applying, and for identifying which of them are so to retire.

50 Power of Electoral Commission to make incidental etc provision

The Commission may by order make incidental, consequential, transitional or supplemental provision in connection with provision made by order under section 44 (order for elections by halves or for elections by thirds).

51 Position if Electoral Commission act under existing powers

In a case in which—

- (a) the Commission give the Boundary Committee a direction to conduct an electoral review (see section 43(2)), and
- (b) in response to that request the Boundary Committee make recommendations to the Commission for electoral changes,

nothing in this Chapter requires the Commission to make any provision in relation to matters dealt with, or to be dealt with, by the Commission in an order under section 17 of the Local Government Act 1992 (c. 19) giving effect to those recommendations.

52 Publicity for order by Electoral Commission

- (1) A council must comply with this section as soon as practicable after the Electoral Commission have made an order under section 44 (order for elections by halves or for elections by thirds) in relation to it.
- (2) The council must produce an explanatory document.
- (3) The council must make the explanatory document—
 - (a) available for public inspection at the council’s principal office at all reasonable times, and
 - (b) available to the public by such other means as the council thinks appropriate.
- (4) The council must publicise these matters—
 - (a) that the council has become subject to the new electoral scheme;
 - (b) how the explanatory document is available in accordance with subsection (3);
 - (c) the address of the council’s principal office.
- (5) It is for the council to decide how these matters are to be publicised.

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- (6) An explanatory document is a document which sets out details of the new electoral scheme.