

EXPLANATORY MEMORANDUM TO
THE LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND
WALES) RULES 2006

2006 No. 3305

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 Rules provide for the conduct of parish council elections in England and community council elections in Wales.

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

3.1 None

4. Legislative Background

4.1 These Rules replace the Local Elections (Parishes and Communities) Rules 1986 (SI. 1986/2215) and incorporate, with appropriate alterations and exceptions, changes introduced by the Electoral Administration Act 2006 (c.22) into the parliamentary election rules (contained in Schedule 1 of the Representation of the People Act 1983 (c.2)).

4.2 This instrument is being made at the same time, and laid before Parliament, in the same legislative context as the Local Elections (Principal Areas) (England and Wales) Rules 2006.

5. Extent

5.1 These Regulations apply to England and Wales.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The conduct rules for the parish and community council elections are presently contained in The Local Elections (Parishes and Communities) Rules 1986. As a result of the changes introduced by the Electoral Administration Act 2006, which received Royal Assent on 11 July 2006, we have produced a new consolidation of these Rules to provide for effective running of elections that take place on or after 3 May 2007. These Rules will not apply to any by-elections held on or before 2 May 2007.

7.2 The Electoral Commission were consulted on these Rules as required by the Political Parties, Elections and Referendums Act 2000.

7.3 The Electoral Commission have a key role in issuing guidance and assistance to Returning Officers on the running of elections, under section 10(3) of the Political Parties, Elections and Referendums Act 2000 (PPERA). We are making these Rules well ahead of the date of the first occasion on which they will be applied so that the Electoral Commission has ample time to issue guidance by the end of January and to give Returning Officers and suppliers of electoral services sufficient time to plan for the effective delivery of elections from 3 May 2007, under the new arrangements.

7.4 In this instrument, we took the opportunity to consolidate all the Rules that apply to the conduct of parish and community council elections, so that the Rules that will apply for the conduct of such elections from the 3 May 2007 will be in one Statutory Instrument. This is in response to a request from Returning Officers and electoral administrators to as far as possible have all the Rules relating to such elections in a single instrument. To achieve this, Schedule 1 to these Rules revokes the 1986 Rules, as amended.

7.5 Schedule 2 to these Rules, apply with relevant adaptations, alterations and exceptions, the parliamentary election rules (Schedule 1, Representation of the People Act 1983 (“the 1983 Act”)), as amended by the Electoral Administration Act 2006. In particular, the Schedule 2 provisions:

- reflect new security measures introduced by the 2006 Act. Security markings on ballot papers are provided for; so too are unique identifying marks. Counterfoils on ballot papers are replaced by corresponding number lists. Requirements are imposed requiring postal voters and postal proxies to provide both their signature and date of birth when returning postal ballot papers. They will be able to check whether their returned postal ballot papers have been received by the returning officer;
- reflect changes made to nomination procedures. Candidates may use their common names on nomination forms and ballot papers. The minimum age for a candidate is reduced from 21 to 18. 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). Returning officers will be able to correct minor errors on nomination papers;
- reflect alterations as to the circumstances in which a person may give a tendered vote. New requirements are introduced as to the information and accessibility of information to be provided by returning officers to electors;
- reflect the changes made as to the persons who may be admitted to a polling station and the count to observe elections;
- 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 are made;
- reflect the changes made regarding the retention and inspection of election documents after the poll; and
- make consequential amendments to, and incorporate new, forms prescribed for use at these elections.

7.6 The Rules also maintain, without substantial amendment, the provisions contained in the 1986 Rules governing:

- the filling of certain casual vacancies by co-options or election (rule 5 of the main body of the Rules);
- the returning officer's responsibilities (instead of the proper officer of the parish or community council) in relation to certain provisions of the 1983 Act applied to parish and community elections by section 187(1) of the 83 Act, and for setting the level of the security for costs for questioning the election at £1,500 (rule 6 of the main body of the Rules); and
- the form of declaration as to election expenses required by section 90(1)(b) of the 1983 Act when an election agent is not appointed for a relevant parish or community council election (Rule 7 and Schedule 4 to these Rules).

7.7 Schedule 3 to these Rules sets out, as modified, the rules in Schedule 2 which apply when the poll at a parish or community area election is taken together with the poll at a relevant election or referendum, meaning a Parliamentary election, a European Parliamentary election, another local government election or a referendum or election for an elected mayor held under the Local Government Act 2000 (c.22).

7.8 Schedule 3 to these Rules also makes provisions equivalent to the modifications to the parliamentary elections rules made by the Combination of Polls (England and Wales) Regulations 2004 (S.I. 2004/294), as amended by 2006/3278) and regulation 65 of the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341).

7.9 Consequential amendments are made to all the existing forms prescribed for use at these elections. New forms to implement the 2006 Act changes, which were prescribed in the Representation of the People (England and Wales) (Amendment) (No. 2) Regulations 2006 (S.I. 2006/2910), have been applied by these Rules with relevant modifications for the purposes of parish and community council elections.

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