

EXPLANATORY MEMORANDUM TO
THE LOCAL ELECTIONS (ORDINARY DAY OF ELECTIONS IN 2014)
ORDER 2013

2013 No. 2277

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

2. Purpose of the instrument

The Local Elections (Ordinary Day of Elections in 2014) Order 2013 (“the Order”) moves the ordinary day of election to county, district, London Borough and parish councils in England in 2014 to the same day as the date of the poll at the European Parliamentary election, and makes incidental, supplementary and consequential provision as a consequence of that change.

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

None.

4. Legislative context

4.1 The ordinary day of local elections is usually the first Thursday in May, in accordance with section 37(1) of the Representation of the People Act 1983 (“the 1983 Act”). Consequently, in 2014 the ordinary day of local elections would, but for this Order, have been Thursday 1st May.

4.2 The European Parliamentary general elections are held on a day appointed by order by the Secretary of State under section 4 of the European Parliamentary Elections Act 2004. In practice, the day will be appointed to fall within the period determined in accordance with Article 10 of the Act annexed to the Decision of the European Council concerning the election of the representatives of the Assembly by direct universal suffrage (Decision 76/787/ECSC, EEC, Euratom, as amended)¹ (“the European Act”). Under Article 10 of the European Act, the elections take place every five years, and must take place between a Thursday and the following Sunday; the exact date and times of the election are a matter for the Member State (Article 9 of the European Act). No order has yet been made under section 4 of the European Parliamentary Elections Act 2004 for the 2014 elections, however the Government's intention is to make an Order under section 4 before 31 October 2013.

¹ A consolidated version of the text of that Act can be found at:
<http://eurlex.europa.eu/LexUriServ/site/en/consleg/1976/X/01976X1008-20020923-en.pdf>.

4.3 Section 37A(1) of the 1983 Act provides that an order may change the ordinary day of three classes of local elections: (a) counties, districts and London boroughs; (b) parishes; and (c) the Greater London Authority, so as to be the same as the date of the poll at the European Parliamentary general election. The effect of sub-section (2) is that an order may move the ordinary day in relation to all of the classes, or to one or two of these classes without moving it in relation to the other classes of elections.

4.4 The Order moves all those ordinary local elections which are due to take place in 2014. These are elections to district councils, including metropolitan district councils, and London boroughs, as well as to some parish councils. The Order does not refer to elections of councillors of the Greater London Authority as there are not due to be any ordinary elections to this body in 2014. The ordinary day of election for elected mayors is set by reference to the ordinary day of election of councillors (see regulation 2 of the Local Authorities (Elected Mayors) (Elections, Terms of Office and Casual Vacancies) (England) Regulations 2012 (S.I. 2012/336)). The effect of the Order is to also move the ordinary day of election for elected mayors in England to the ordinary day for local elections.

4.5 Section 37A(3) of the 1983 Act requires that an order under sub-section (1) of that section must relate to a single year. The Order relates to 2014 only.

4.6 Section 37A(3) also provides that an order to move the ordinary day of local elections must be made at least six months before whichever is the earlier in that year: the local election day, or the date of the poll at the European Parliamentary general election.

4.7 Article 4 of the Order makes provision in relation to the holding of by-elections prior to the ordinary day of elections in 2014. Under section 89(3) of the Local Government Act 1972 (c.70) and rule 5 of the Local Elections (Parishes and Communities) (England and Wales) Rules 2006(S.I. 2006/3305), a by-election will not usually be held where a casual vacancy arises in the office of councillor within 6 months before the date on which the councillor would regularly have retired. As the retirement date of councillors is affected by moving the ordinary day of elections, Article 4 provides clarity as to when the period during which no by-election will be held by substituting the reference to six months before the retirement date with a period beginning six months immediately before the poll at the European Parliamentary general election held in 2014.

4.8 This is the second occasion on which the powers conferred by section 37A of the Representation of the People Act 1983 (“the 1983 Act”) have been exercised. The ordinary day of local elections was moved to the same day as the date of the poll at the European Parliamentary elections in 2009 by the Local Elections (Ordinary Day of Elections in 2009) Order 2008 (S.I. 2008/2857). The ordinary day of local elections was moved to the same day as the date of the poll at the European Parliamentary elections in 2004 by the Local Elections (Ordinary Day of Election 2004) Order 2004 (S.I. 2004/222), but the power under which that Order was made, section 103 of the Local Government Act 2003 (c.26), related only to elections in 2004.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

The Minister for Local Government has made the following statement regarding Human Rights:

In my view the provisions of the Local Elections (Ordinary Day of Elections in 2014) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1. In 2014 there will be elections by thirds to over ninety shire and unitary district councils in England and to all metropolitan district councils, plus whole council elections to all London boroughs and a small number of parishes, as well as five mayoral elections (see Annex for a list of major local government elections in 2014). Those elections are due to take place on 1 May. The European Parliamentary elections are now to be held on Thursday 22 May 2014 (originally they were due to take place on 5 June) only three weeks after the local government elections. The Government decided to consult on whether or not to move the local government elections in 2014 so that they take place on the same day as the European Parliamentary elections.

7.2. This has been done on the last two occasions such elections were held in the same year. In 2004, the local elections, Greater London Authority and European Parliamentary general elections were held on the same day as the European Parliamentary elections. The elections to the majority of county councils in England and a small number of district councils, as well as five mayoral elections and elections to a number of parish councils were held on the same day in 2009.

Consultation to move local elections in 2014

7.3. The Secretary of State's consultation on moving the ordinary day of local elections² was issued on 26 March 2013. The consultation invited the views of the Electoral Commission and others, including local authorities and the Association of Electoral Administrators, but was open to anyone to respond to. The consultation specifically sought views on the following questions:

- Do you consider that Government should seek to move the date of elections to principal local authorities in 2014, including elections of directly elected mayors, from 1 May so that they are held on the same day as, and in combination with, the European Parliamentary elections?
- If we change the date for those elections should we also move the date of parish council elections where they are scheduled to take place on 1 May 2014?
- If we change the date of elections to principal authorities, should we also move the date of any council tax referendums where they are scheduled to take place on 1 May 2014?
- What practical issues do you foresee in combining effectively local elections with the European Parliamentary elections?
- What practical issues do you foresee in combining effectively local elections with any referendums?

² <https://www.gov.uk/government/consultations/moving-the-date-of-english-local-elections-to-the-date-of-the-european-parliamentary-elections-in-2014>.

- What action do you think should be taken to address these practical issues (whether by local authorities, Government or the Electoral Commission)?

7.4 The consultation closed on 13 May 2013. On 14 June 2013 the Council of the European Union took the decision to move the period for the European Parliamentary elections from 5-8 June to 22-25 May.

8. Consultation outcome

8.1. From the response received it is clear that there are mixed views on moving this date, with some two thirds of the 155 consultation responses favouring a change of date and around one third wanting no change. Among local authorities and others involved in the administration of elections there is wide support for moving the date and the majority of those that commented on the issue of parish elections and council tax referendums were content for the date to be moved. This is on the grounds that sticking with 1 May for local elections, to be followed a few weeks later (now confirmed to be merely three weeks later by the decision of the Council of the European Union) with the European Parliamentary elections, could be confusing and inconvenient for voters, and unnecessarily burdensome and costly in terms of administration and for those canvassing and distributing election material. By moving the dates of the local elections schools being used as polling stations would only have to close for one day, minimising disruption both to children's education and to working parents and carers. Consultees, including Head Teachers, highlighted the importance of avoiding additional closure days in a key term where there could be impact upon pupil progress.

8.2. Many responses from the local authorities also made the point that returning officers and local authorities are able to cope with combination and the issues it raises as they now have significant experience of having more than one election on the same day.

8.3. Representative bodies for electoral matters and local government – the Association of Electoral Administrators, the Local Government Association, SOLACE and the Electoral Reform Society - were in favour of moving the local government elections, given the experience of combined elections is now high amongst Returning Officers and holding all elections on the same day will greatly reduce costs and workload for electoral administrators. The Association of Electoral Administrators suggested that if elections are held separately there is the potential for confusion on the part of voters and participants regarding the deadlines for registration and absent voting applications as well as other key election activity where the timetables overlapped. In addition to the administrative complexity involved, having two sets of elections within a few weeks of each other would involve the duplication of a considerable amount of work. The hiring of polling stations and staff for two separate polling days would present a considerable challenge with difficulties in recruiting staff and securing premises. They argue that whilst it is true that the procedures become more complex the more electoral events that are held on the same day, and the more polls that are combined, on balance, this is preferred to the difficulties and duplication of effort and resource involved in running separate elections and referendums within a few weeks of each other.

8.4. Those favouring sticking to 1 May 2014 for the local elections mention concerns that combining the elections would weaken the democratic mandate of local government, since the focus of the elections will inevitably not be on local issues, and would dilute localism.

They also suggest that combined elections themselves could be confusing for the voters, particularly given the different voting systems for local and European Parliamentary elections.

8.5. The Electoral Commission, a statutory consultee, supports the proposed change of date. It concludes that holding two elections only a few weeks apart presents more opportunities for voter confusion than would be the case when holding them together. The Electoral Commission believes that the balance of the argument is in favour of holding the polls on the same day. The Commission states that although more than one voting system will be in place should the elections be held on the same day, their public opinion research suggests that this has not been a particular source of confusion for voters.

8.6. The Commission's assumption is also that other polls (parish elections and council tax referendums) will be held on the same day and combined unless there is a strong case to the contrary. The Commission also suggests that the Government should consider any views from political parties and campaigners about the impact of holding the elections, either on the same day or only three weeks apart, on their ability to clearly communicate the separate campaign issues to voters. In fact only two political parties responded – the Green Party and the Labour Party – both supporting combination.

8.7. In order to minimise potential for confusion amongst voters, consultees raised the need for an effective public awareness campaign to be carried out by both local authorities and by the Electoral Commission. As part of their role in raising public awareness, the Electoral Commission will be conducting a voter information campaign prior to the European Parliamentary elections with specific information on the voting system and what voters can expect at their polling station. Should these elections be held on the same day as the local elections in England, it will modify its public awareness plans in affected areas to include reference to any other polls taking place.

8.8. Local registration and returning officers also have a duty to encourage participation and therefore local communications plans and awareness activity would need to dovetail with any national campaign by the Electoral Commission. The general view was that there would need to be clear public information about the different elections, referendums and voting systems and that local authorities were used to providing such information. One of the most important things to do to reduce any confusion will be to ensure that ballot papers are clearly differentiated (which they will be³).

8.9. After careful consideration of the issues, the Government is clear that with the European Parliamentary elections on the 22 May, the case for moving the date of the local elections and combining them with the European elections is strong. Were the period between the elections longer, the arguments would be less clear cut. However, given the circumstances and the decision of the European Member States to move the date of the European Parliamentary elections, if the local election date is not moved, there would be two elections within three weeks. In such circumstances the balance of argument – in terms of minimising inconvenience and confusion for voters and of ensuring the polls are soundly and efficiently administered - unambiguously lies in favour of moving the date of the local elections and combining the polls.

³ Paragraph 16(2) of Schedule 3 to the Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304) provides that the colour of the ballot paper at a local election shall be different to that for any other election held on the same day

8.10. The provisions made in the Order are closely based on the previous Order for 2009. Representations on the need to move the dates for the holding of annual meetings for joint authorities have been addressed in the Order, in particular we have made provision for the annual meeting of the London Fire and Emergency Planning Authority so that there is sufficient time for the mayor to appoint London Borough representatives to the Authority following the local elections. Should there be any council tax referendums in 2014 the Department will liaise with the relevant local authorities as to the date for holding the referendum, using if necessary powers under section 52Z of the Local Government Finance Act 1992 (as amended by the Localism Act 2011), to enable the referendum to be held on the same day as the European Parliamentary election.

9. Guidance

The Department will write to those councils that will be holding elections in 2014 informing them that the Order has been made. The Department will also announce the change of date on the Government's website, where it will provide a link to this Order.

10. Impact

10.1 As with the Local Elections (Ordinary Day of Elections in 2009) Order 2008, an Impact Assessment has not been prepared for this instrument. It has no impact on business, charities or voluntary bodies.

10.2 There are no new burdens on local authorities arising from moving the date of local government elections to the date of European elections, rather the move should result in savings for the administration of those elections for local authorities and for the Government. It is difficult to provide an accurate estimate of what the total savings will be although the Government's initial considerations indicate that savings in the region of £10 million could be achieved. The Electoral Commission has informed us that they estimate holding the elections on the same date will save £0.95m from their public awareness campaigns' budget.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Electoral Commission works to ensure well-run elections across the UK. It provides guidance and assistance to Returning Officers and candidates and agents; monitors performance standards for Returning Officers and other work to ensure the integrity of the electoral process; and runs campaigns to ensure people know how to register and cast their vote. It also reports on the administration of elections and referendums and will report on the European Parliamentary elections held in 2014 in the usual way.

13. Contact

Maggie Crosby at the Department for Communities and Local Government Tel: 0303 444 2573 or email: maggie.crosby@communities.gsi.gov.uk can answer any queries regarding the instrument.

Elections to principal councils in 2014

Shire (two-tier) district councils electing by thirds

1. Amber Valley
2. Basildon
3. Basingstoke and Deane
4. Bassetlaw
5. Brentwood
6. Broxbourne
7. Burnley
8. Cambridge
9. Cannock Chase
10. Carlisle
11. Castle Point
12. Cherwell
13. Chorley
14. Colchester
15. Craven
16. Crawley
17. Daventry
18. Eastleigh
19. Elmbridge
20. Epping Forest
21. Exeter
22. Gloucester
23. Great Yarmouth
24. Harlow
25. Harrogate
- 26. Hart**
27. Havant
28. Hertsmere
29. Huntingdonshire
30. Hyndburn
31. Ipswich
32. Lincoln
33. Maidstone
34. Mole Valley
35. Newcastle-under-Lyme
36. North Hertfordshire
37. Norwich
38. Pendle
39. Preston
40. Purbeck
41. Redditch
42. Reigate and Banstead
43. Rochford
44. Rossendale
45. Rugby
46. Runnymede
47. Rushmoor
48. St Albans
49. South Cambridgeshire
50. South Lakeland
51. Stevenage
52. Stratford-on-Avon
53. Stroud
54. Tamworth
55. Tandridge
- 56. Three Rivers**
57. Tunbridge Wells
58. Watford
59. Welwyn Hatfield
60. West Lancashire
61. West Oxfordshire
62. Weymouth and Portland
63. Winchester
64. Woking
65. Worcester
66. Worthing
67. Wyre Forest

Unitary (single-tier) district councils electing by thirds

1. Blackburn with Darwen
2. Derby
3. Halton
4. Hartlepool
5. Hull
6. **Milton Keynes**
7. North East Lincolnshire
8. Peterborough
9. Plymouth
10. Portsmouth
11. Reading
- 12. Slough**
13. Southampton
14. Southend on Sea
15. Swindon
16. Thurrock
17. Warrington
18. Wokingham

Shire (two-tier) district councils electing by halves

1. Adur
2. Cheltenham
3. Fareham
4. Gosport
5. Hastings
6. Nuneaton and Bedworth
7. Oxford

Metropolitan district councils electing by thirds

1. Barnsley
2. Birmingham
3. Bolton
4. Bradford
5. Bury
6. Calderdale
7. Coventry
8. Doncaster
9. Dudley
10. Gateshead
11. Kirklees
12. Knowsley
13. Leeds
14. Liverpool
15. Manchester
16. Newcastle Upon Tyne
17. North Tyneside
18. Oldham
19. Rochdale
20. Rotherham
21. Salford
22. Sandwell
23. Sefton
24. Sheffield
25. Solihull
26. South Tyneside
27. St Helens
28. Stockport
29. Sunderland
30. Tameside
31. Trafford
32. Wakefield
33. Walsall
34. Wigan
35. Wirral
36. Wolverhampton

London Boroughs electing by whole council

- | | |
|--------------------------|-------------------------------------|
| 1. Barking & Dagenham | 17. Hounslow |
| 2. Barnet | 18. Islington |
| 3. Bexley | 19. Kensington & Chelsea |
| 4. Brent | 20. Kingston Upon Thames |
| 5. Bromley | 21. Lambeth |
| 6. Camden | 22. Lewisham |
| 7. Croydon | 23. Merton |
| 8. Ealing | 24. Newham |
| 9. Enfield | 25. Redbridge |
| 10. Greenwich | 26. Richmond Upon Thames |
| 11. Hackney | 27. Southwark |
| 12. Hammersmith & Fulham | 28. Sutton |
| 13. Haringey | 29. Tower Hamlets |
| 14. Harrow | 30. Waltham Forest |
| 15. Havering | 31. Wandsworth |
| 16. Hillingdon | 32. Westminster |

London boroughs holding elections for the directly elected mayor

1. Hackney
2. Lewisham
3. Newham
4. Tower Hamlets

Shire (two-tier) district councils holding elections for the directly elected mayor

1. Watford

Councils shown in bold are likely to hold whole council elections in 2014 to introduce revised electoral arrangements (changes to the number of councillors and the names and boundaries of wards)