

*Draft Order laid before Parliament under section 123(4) of the Local Government Act 2003, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2004 No.**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Elections (Ordinary  
Day of Election 2004) Order 2004**

Made - - - - 2004  
Coming into force in accordance with article 1

The First Secretary of State, in exercise of the powers conferred upon him by sections 103 and 123(1) (b) of the Local Government Act 2003<sup>(1)</sup> and having consulted the Electoral Commission and such other persons as he considers appropriate, hereby makes the following Order, a draft of which has been laid before, and approved by resolution of, each House of Parliament:

**Citation and commencement**

1. This Order may be cited as the Local Elections (Ordinary Day of Election 2004) Order 2004 and shall come into force on the day after that on which it is made.

**Change of ordinary day in 2004**

2.—(1) Notwithstanding section 37 of the Representation of the People Act 1983<sup>(2)</sup>, in 2004 the ordinary day of election of councillors for all local government areas in England shall be the same day as the date of the poll at the European Parliamentary general election<sup>(3)</sup> held in that year.

(2) Notwithstanding section 3(2) of the Greater London Authority Act 1999<sup>(4)</sup>, the day on which the poll is to be held at the second ordinary election under that Act shall be the same day as the date of the poll at the European Parliamentary general election held in 2004.

(3) The term of office of a councillor for a local government area in England who would regularly retire on the fourth day after the ordinary day of election in 2004 of councillors for such areas shall

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(1) 2003 c. 26.

(2) 1983 c. 2.

(3) The date of the poll at the European Parliamentary general election is appointed by the Secretary of State pursuant to section 4 of the European Parliamentary Elections Act 2002 (c. 24).

(4) 1999 c. 29.

be a term ending with that retirement, even if as a result his term of office will be longer than the period specified for that term in any enactment<sup>(5)</sup>.

(4) Paragraph (1) above does not affect the retirement date for a councillor for a local government area in England who comes into office on the fourth day after the ordinary day of election in 2004 of councillors for such areas, even if as a result his term of office will be shorter than the period specified for that term in any enactment.

(5) Section 16(1) of the Representation of the People Act 1985<sup>(6)</sup> shall not apply in relation to any elections of parish councillors to be held on the ordinary day of election of councillors for local government areas in England in 2004.

(6) Any reference to 6th May 2004 in any order—

- (a) made under section 17 of the Local Government Act 1992<sup>(7)</sup> (implementation of recommendations for boundary, structural or electoral changes),
- (b) made under sections 14 and 23 of the Local Government and Rating Act 1997<sup>(8)</sup> (implementation of recommendations arising from parish reviews or petitions for new parishes),
- (c) made under sections 16, 17 and 23 of the Local Government Act 1997 (establishment of new parish councils by local authorities and electoral arrangements for such parish councils),
- (d) made in relation to England under section 86 of the Local Government Act 2000<sup>(9)</sup> (power to specify a scheme of elections), or
- (e) made in relation to England under section 87 of the Local Government Act 2000 (power to change years in which elections held),

shall be construed as a reference to the ordinary day of election in 2004 of councillors for local government areas in England, determined in accordance with paragraph (1) above.

(7) Any reference to 10th May 2004 in any order of a type referred to in paragraph (6) shall be construed as a reference to the fourth day after the ordinary day of election in 2004 of councillors for local government areas in England, determined in accordance with paragraph (1) above.

### **Elections to fill casual vacancies**

3. In relation to the ordinary elections in 2004—

- (a) where a councillor for a principal area in England would regularly have retired on the fourth day after the ordinary day of election of such councillors in 2004, section 89(3) of the Local Government Act 1972<sup>(10)</sup> shall apply in relation to a casual vacancy in his office as if for “six months before” there were substituted “the period beginning with 10th November 2003 and ending immediately before”, and
- (b) where a parish councillor would regularly have retired on the fourth day after the ordinary day of election of such councillors in 2004, rule 8 of the Local Elections (Parishes and Communities) Rules 1986<sup>(11)</sup> shall apply in relation to a casual vacancy in his office as

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(5) As to the term of office of councillors for principal areas in England, *see* section 7 of the Local Government Act 1972. As to the term of office of parish Councillors, *see* section 16(3) of the Local Government Act 1972.

(6) 1985 c. 50. Section 16(1) provides for the postponement for 3 weeks of the poll at an election of parish councillors where the date of the poll at a European Parliamentary general election and the ordinary day of election for councillors in England and Wales are the same.

(7) 1992 c. 19.

(8) 1997 c. 29.

(9) 2000 c. 22.

(10) 1972 c. 70.

(11) S.I.2215/1986.

if in paragraphs (1) and (4) for “six months before” there were substituted “the period beginning with 10th November 2003 and ending immediately before”.

### **Annual meetings**

4.—(1) In relation to the year 2004, the provisions of Schedule 12 to the Local Government Act 1972 shall be modified in accordance with paragraphs (2) and (3) below.

(2) Paragraph 6A(1)(**12**) (date of annual meeting of joint authorities and police authorities) shall have effect, in relation to a joint authority in England or a police authority in England and Wales, as if for the words “and 30th June” there were substituted “and 31st August”.

(3) Paragraph 14(1) (date of annual meeting of parish), in the case of a parish having a parish council for which 2004 is a year of ordinary elections, shall have effect as if for the words “and 1st June,” there were substituted “and 31st July”.

Signed by authority of the First Secretary of State

2004

Minister of State,  
Office of the Deputy Prime Minister

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(12) Paragraph 6A was inserted by the Local Government Act 1985 (c. 43), section 84 and Schedule 14, Part I, paragraph 35(2), and the current version was substituted by the Local Government Act 1986 (c. 10), section 10(3).

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This order changes the date of local elections in England in 2004, so that it is the same as the date of the European Parliamentary elections in that year and deals with a number of consequential matters. The ordinary date for local elections in England is usually the first Thursday in May in each year. Article 2 provides that the ordinary date of elections in 2004 in England shall be changed to be the same as the date of the poll for the European Parliamentary elections. It also provides that in relation to the 2004 elections in England—

the terms of office of any councillors due to retire following those elections are to be extended;  
the terms of office of councillors elected will be reduced;

section 16(1) of the Representation of the People Act 1985 shall not apply (this section normally postpones for three weeks any parish elections due to take place on the same date as European Parliamentary and other local elections); and

references to the expected date of elections in 2004 and to the commencement and termination of terms of office of councillors in any orders made under the powers listed in article 2(4) (which relate to local government boundary changes, the creation of new local government areas and councils and changes to electoral cycles of councils) are to be construed in accordance with the change made by this Order.

Article 3 extends, in relation to local authorities in England, the period during which it is not necessary to hold a by-election prior to the ordinary day of election, so that in relation to elections in 2004 this period will last from 10th November 2003 (the date on which this period would normally start) until the modified ordinary date of election in 2004.

Article 4 extends the date by which joint authorities in England and police authorities in England and Wales must hold their annual meetings until 31st August, so that they can be held after any elections which may affect their composition. It also extends the date by which annual parish meetings in parishes which are having ordinary elections to the parish council in 2004 must take place until the end of July, so that they can be held after any such elections.