

GREATER LONDON AUTHORITY ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I: the Greater London Authority

Section 1: The Authority and Section 2: Membership

34. *Sections 1 and 2* and *Schedule 1* provide for the establishment of the GLA. The GLA will be made up of a directly elected Mayor and a separately elected Assembly of twenty five members. The Mayor and Assembly together will have a corporate legal identity as the Authority.
35. The Assembly will be elected under the additional member system. Fourteen Assembly members will represent constituencies, each made up of two or three complete London boroughs. The Secretary of State will decide the boundaries and names of these constituencies, on the basis of recommendations made by the Local Government Commission for England (the LGC). Eleven Assembly members (known as "London members") will be elected under the additional member system for the whole of Greater London.
36. The election of the Authority as a whole will take place once every four years (the "ordinary election"). There will be an election for the Mayor and one for the London members plus elections in each constituency for the constituency member. The term of office of those elected at an ordinary election will run from the second day after the last declaration to the second day following the last declaration at the next ordinary election.
37. *Schedule 1* contains provisions on the Assembly constituencies. In May 1998, using powers contained in the Greater London Authority (Referendum) Act 1998, the Secretary of State directed the LGC to produce recommendations for the boundaries of the Assembly constituencies. The LGC submitted its recommendations on 30 November 1998. The Minister for London announced in Parliament on 19 January 1999 (Hansard Col 726) that the Government have decided to accept the Commission's recommendations and that, subject to the passage of the Act, they would be implemented by secondary legislation after Royal Assent.
38. *Section 2(4)* empowers the Secretary of State to implement these recommendations by order.
39. *Schedule 1* also contains provisions to allow for future reviews of the constituency boundaries. Detailed ground rules state that there should always be fourteen constituencies, composed of combinations of two or more contiguous whole London Boroughs, and that the number of electors in each constituency should be as similar to each other as is reasonably practicable.
40. The Schedule also lays down a basic structure for future reviews of the Assembly constituencies. Reviews of the constituencies will be at the discretion of the Secretary of State. The Secretary of State will commission the LGC to carry out a review, and may produce guidance that the LGC will have to take into account; the LGC will carry

out its review, and produce recommendations. The Secretary of State will have powers to implement these recommendations.

41. The Schedule provides for two different scenarios in which a review of the constituencies might occur.
 - The Secretary of State might simply order the LGC to carry out a full review of the assembly constituencies; or
 - Changes to the boundaries of the London boroughs might necessitate consequent changes to the assembly constituency boundaries (as these are based on the London boroughs). Part II of the Local Government Act 1992 gives the Secretary of State powers to direct the LGC to carry out a review of borough boundaries. When the LGC produces its report on such a review, it will have to indicate the impact of any recommended changes to borough boundaries on the Assembly constituencies.
42. There are three possible outcomes here:
 - The LGC may recommend radical changes to London borough boundaries (such as the abolition of existing boroughs or the creation of new boroughs). In this case, the LGC might recommend to the Secretary of State that a full review of the assembly constituencies is needed to take account of this. The Secretary of State would then commission the LGC to carry out a full review of the constituency boundaries.
 - The LGC may recommend changes to borough boundaries that are not so radical as to make the existing constituencies redundant, for example, a recommendation to alter a borough boundary that was also a boundary between two constituencies. In this case, the LGC might include in its report a recommendation for consequential changes to the constituency boundaries.
 - The LGC may recommend that changes to the borough boundaries do not require any changes to the constituency boundaries.

Sections 3 and 4: Ordinary elections

43. *Section 3* contains provisions on ordinary elections to the Authority. The first ordinary election will be held on 4 May 2000, unless the Secretary of State exercises the order-making power provided by this section to postpone them to a later date. Subsequent elections will be held on the first Thursday in May in the fourth calendar year following that in which the first ordinary election was held. Subsections (4)(d) and (5) give the Secretary of State the power to introduce a system of early voting for the first ordinary election.
44. *Section 4* contains provisions on voting at ordinary elections. The ordinary election for the Authority will consist of a mayoral election, the election of Assembly members in each of the fourteen constituencies and the election of the London members.
45. In the mayoral election, if there are only two candidates, the one with the most votes wins under first-past-the-post procedures. But if there are three or more candidates, a different voting system - the *Supplementary Vote (SV)* system - comes into play. Voters will be able to indicate their first and second choice for Mayor. How these choices are counted, in order to determine who should be returned as Mayor, is set out in Part I of Schedule 2 to the Act.
46. Candidates for the Assembly will be elected under the *Additional Member System (AMS)*. Voters will have two votes – one for a constituency member and one – known as a *London vote* - for an individual or political party list. Each of the 14 constituencies will return one constituency candidate elected on the normal first-past-the-post basis. Eleven additional seats in the Assembly will be allocated on the basis of the London vote using the De Hondt formula. This is intended to top up the number of seats for each party in the Assembly in order to reflect broadly their proportion of the London

vote. The precise way in which this is done is set out in Part II of Schedule 2 of the Act. A worked example is given below.

47. The way in which the elections of the Mayor and Assembly members interact is the subject of subsections (7) to (10) of the section. The result of the elections of the Mayor and the constituency members must be determined first, so that the calculation (set out in Part II of Schedule 2) resulting from the count of the London vote can be made under section 4 and Schedule 2; this calculation is not to be held up if any of the constituency polls has been countermanded. No-one may stand in more than one Assembly constituency and if the person returned as Mayor is also successful in a constituency election, a by-election will ensue in that constituency (but the seat will be counted as having been won by the relevant party for the purposes of the London vote - see paragraph 6(4) of Schedule 2). More detailed provision for the interaction of the various polls is contained in Schedule 2 to the Act.
48. *Schedule 2* contains detailed provisions on voting at elections for the Mayor and the London members of the Assembly.

The Mayoral Poll

49. Whenever there are three or more candidates to be Mayor, each voter may indicate on the ballot paper their first and second choices for Mayor. When the votes are counted any candidate with more than half the first preference votes wins outright. However if no candidate wins an overall majority then second preference votes are taken into consideration. The two candidates with the most votes remain in the contest (and there is provision for any tie for second place). The second preference votes on the ballot papers of the eliminated candidates are then examined and any second preference votes for the remaining candidates are allocated to them. The candidate who then has the most votes is returned as Mayor.

Worked example of Mayoral poll

50. There are four candidates, A, B, C, and D. Counting the first preference votes gives the following result.

Candidate	Votes
A	900,000
B	600,000
C	1,100,000
D	400,000
Spoilt papers	10,000
Total ballot papers	3,010,000

51. Candidates A and C remain in the contest and candidates B and D are eliminated. The second preference votes of candidates B and D are then examined, revealing the following choices.

Candidate	Votes
A	550,000
C	300,000
Other	150,000
Total	1,000,000

*These notes refer to the Greater London Authority Act 1999
(c.29) which received Royal Assent on 11th November 1999*

Note: "Other" includes papers where the second preference vote was spoilt, unclear or not recorded or where the vote was for one of candidates B or D.

The final vote is therefore -

First preference	Second preference	Total
A 900,000	550,000	1,450,000
C 1,100,000	300,000	1,400,000

And candidate A is returned as Mayor.

Voting for the Assembly

52. The Assembly seats deriving from the London vote will be allocated according to the De Hondt formula, a commonly-used way of allocating seats under proportional representation. When allocating seats in the Assembly on the basis of the London vote, the Greater London Returning Officer (defined in section 29) considers the party affiliation of the constituency candidates who have been returned as members of the Assembly and the number of London votes cast for that party. He then divides the party's total London vote by the number of seats that party has won plus one (one is added to avoid dividing by zero where no seat has been won). The result is known as the party's *London figure*. Independent candidates are given a London figure equal to their London vote.
53. The first seat is then allocated to the party or individual with the highest London figure. When a seat is allocated to a party, its London figure is recalculated on the basis of the new total number of seats plus one. The next seat is then allocated on the basis of the highest London figure at that stage, after which the winning party's London figure is similarly recalculated, until all 11 seats have been allocated. Should two parties tie for the last seat, their figures are recalculated as though each party had one more seat and the one whose London figure is the highest gets the seat. If the tie continues the matter is to be settled by lot. A threshold for election as a London member of the Assembly is set in paragraph 7 of Schedule 2. A party or independent candidate failing to win at least 5% of the total of London votes will not be allocated any of the London member seats.
54. A worked example is set out below:
55. In this worked example, the fourteen Assembly constituency seats are shared between parties A, B, and C as follows:

Party A:	6 seats
Party B:	5 seats
Party C:	3 seats

56. The eleven London-wide seats are contested by the three parties and by one independent candidate. The votes cast are as follows:

Party A:	1,857,000 votes
Party B:	1,500,000 votes
Party C:	900,000 votes
Independent:	230,000 votes
Total Votes Cast:	4,487,000

*These notes refer to the Greater London Authority Act 1999
(c.29) which received Royal Assent on 11th November 1999*

57. The eleven London-wide seats are then distributed on the basis of these figures as follows:

Guideline for the calculation of London-wide seats:

1. In line with the De Hondt Formula (see above), 1 seat is added to each party's constituency seat total.
2. The London-wide vote for that party or individual is divided by this number (i.e. by the number of Constituency seats, plus 1).
3. The party or individual with the largest number wins a seat. (Party A in the example wins the first seat).
4. The winner's seat total is increased by one, and the calculation is repeated.
5. This time, Party B has the largest number and wins the seat.
6. This process continues until all 11 seats are allocated.

ILLUSTRATION

Allocation of London-wide seats.

<i>London-wide</i>	Party A	Party B	Party C	Independent	Result
1 st Seat	1,857,000 ÷ 7 = 265,286	1,500,000 ÷ 6 = 250,000	900,000 ÷ 4 = 225,000	230,000 ÷ 1 = 230,000	Party A
2 nd Seat	1,857,000 ÷ 8 = 232,125	1,500,000 ÷ 6 = 250,000	900,000 ÷ 4 = 225,000	230,000 ÷ 1 = 230,000	Party B
3 rd Seat	1,857,000 ÷ 8 = 232,125	1,500,000 ÷ 7 = 214,286	900,000 ÷ 4 = 225,000	230,000 ÷ 1 = 230,000	Party A
4 th Seat	1,857,000 ÷ 9 = 206,333	1,500,000 ÷ 7 = 214,286	900,000 ÷ 4 = 225,000	230,000 ÷ 1 = 230,000	Independent
5 th Seat	1,857,000 ÷ 9 = 206,333	1,500,000 ÷ 7 = 214,286	900,000 ÷ 4 = 225,000	230,000 ÷ 2 = 115,000	Party C
6 th Seat	1,857,000 ÷ 9 = 206,333	1,500,000 ÷ 7 = 214,286	900,000 ÷ 5 = 180,000	230,000 ÷ 2 = 115,000	Party B
7 th Seat	1,857,000 ÷ 9 = 206,333	1,500,000 ÷ 8 = 187,500	900,000 ÷ 5 = 180,000	230,000 ÷ 2 = 115,000	Party A
8 th Seat	1,857,000 ÷ 10 = 185,700	1,500,000 ÷ 8 = 187,500	900,000 ÷ 5 = 180,000	230,000 ÷ 2 = 115,000	Party B
9 th Seat	1,857,000 ÷ 10 = 185,700	1,500,000 ÷ 9 = 166,667	900,000 ÷ 5 = 180,000	230,000 ÷ 2 = 115,000	Party A
10th Seat	1,857,000 ÷ 11 = 168,818	1,500,000 ÷ 9 = 166,667	900,000 ÷ 5 = 180,000	230,000 ÷ 2 = 115,000	Party C
11th Seat	1,857,000 ÷ 11 = 168,818	1,500,000 ÷ 9 = 166,667	900,000 ÷ 6 = 150,000	230,000 ÷ 2 = 115,000	Party A
Total FPTP Seats	6	5	3	0	
Total London-	5	3	2	1	

<i>London-wide</i>	Party A	Party B	Party C	Independent	Result
wide Seats					
Total Seats	11	8	5	1	

Sections 5 to 11: Vacancies in the Assembly

58. *Sections 5 to 11* make provision for vacancies in Assembly membership and are based on the provisions in Part V of the Local Government Act 1972 for vacancies in the membership of local authorities.
59. A vacancy arises where
- a member resigns;
 - a member fails for six consecutive months to attend a meeting of the Assembly, of one of its committees or sub-committees or of an outside body as an Assembly representative (unless for a reason approved by the Assembly);
 - a member whose only qualification for election was the fact that he was a local government elector for Greater London ceases to be such an elector (see further section 20);
 - a member becomes disqualified for any of the reasons set out in section 21;
 - a person returned as an Assembly member at an ordinary election is also returned as the Mayor; or
 - a member is returned as the Mayor at an election to fill a vacancy in that office.
60. A vacancy arising otherwise than on account of death, resignation or automatic disqualification has to be declared by an officer of the Authority charged with that function or by the High Court under section 23. A vacancy in an Assembly constituency is filled at an election held in the constituency on the first past the post basis. The election must be held no later than 35 days after the date on which the vacancy is to be regarded as occurring in accordance with section 10 (but Sundays and holidays are left out of account).
61. If a vacancy occurs within six months prior to the date of an ordinary election, no election will be held; instead it will be left unfilled until the next ordinary election of the whole Assembly. However, if the occurrence of a vacancy means that the total number of vacancies exceeds one-third of the total membership of the Assembly, then an election to fill that vacancy must take place.
62. Where a vacancy arises among the London members, it will remain unfilled until the next ordinary election unless the vacancy is of a London member elected from a party list and there are persons on the list who can be chosen by the Greater London returning officer to fill the vacancy.
63. To be eligible to fill such a vacancy, a person on a list must be willing to serve. In addition, if a person on the list is no longer a member of the party concerned, the party may notify the returning officer that the person is not to fill the vacancy.
64. If there is more than one person who satisfies the conditions set out above, then the highest placed of these persons on the list will be returned.
65. The term of office of the persons elected or chosen to fill vacancies will end at the same time as the terms of office of the persons elected at the previous ordinary election.

Sections 12 to 16: Vacancy in the office of the Mayor

66. *Sections 12 to 16* deal with vacancies in the office of Mayor and are broadly similar to the provisions for vacancies in Assembly membership. In the case of the Mayor, however, the provision in *section 13* where the mayor ceases to be a member on account of a failure to attend meetings relates to a failure on six consecutive occasions to attend the meetings of the Assembly held under section 52(2).
67. A mayoral vacancy is filled by an election held on the same basis as an ordinary election unless it occurs in the six months preceding the next ordinary election. In that case the office of Mayor is to be left unfilled and the deputy Mayor or the Chair of the Assembly will act as Mayor until the next ordinary election.

Section 17: Franchise, conduct of elections etc.

68. *Section 17* and *Schedule 3* make detailed provision for Authority elections by amending the Representation of the People Act 1983, which makes provision for the conduct of parliamentary and local government elections. Section references in the following description of Schedule 3 are to that Act.
69. *Schedule 3* to the Act amends section 203 to make Authority elections local government elections for the purposes of that Act. The result is that the normal provisions applying to local government elections in respect of the entitlement to vote, registration, conduct of election, voting offences, the campaign, questioning a result and corrupt and illegal practices will apply in respect of Authority elections. However, in certain instances, Schedule 3 changes the Representation of the People Act to reflect the Authority's different electoral systems and such changes are noted below where they occur.
70. *Paragraph 2* enables polling districts for Authority elections to be prescribed by London borough councils and the Common Council (section 31) and *paragraph 3* makes provision for the returning officers at constituency elections to be designated by the Secretary of State and for the returning officer for the other Authority elections to be an officer appointed by the Authority (section 35).
71. *Paragraph 4* enables rules for Authority elections to be prescribed (section 36). The paragraph specifies that these rules need not apply the parliamentary election rules, as normal local government election rules do under section 36(2), because the Authority's different electoral systems will call for different rules. (For example, Rule 50 of the Parliamentary election rules requires the returning officer to declare elected the candidate for whom the majority of votes has been given. This simple rule does not cover the counting of second preference votes in the mayoral election nor the calculation described in paragraph 53 of this note, necessary as part of the Assembly election.)
72. *Paragraph 5* extends the Secretary of State's power to move the ordinary day for local elections in any year (section 37) so that Authority elections may be on a day other than the first Thursday in May, while *paragraphs 6 and 7* make consequential and technical amendments to sections 39 and 40.
73. *Paragraph 8* disapplies section 46 (which prescribes the number of votes each elector may give) as the number of votes of each elector at Authority elections is dealt with at sections 4, 10 and 16.
74. *Paragraph 9* provides for the returning officers' costs (section 48) and *paragraph 10* adds provisions appropriate to the Authority elections to the voting offences in section 61.
75. *Paragraph 11* extends to the GLA elections the application of the rules of secrecy of voting (section 66) and *paragraphs 12 to 15* make provision in respect of election agents, in particular, to deal with the appointment of a single agent for candidates on a registered political party's list. *Paragraphs 16 to 22* make provision in respect of election expenses, in particular, to enable the Secretary of State by order to set

limits on the election expenses of candidates at Authority elections. *Paragraph 23* amends section 81 to extend the time within which election expenses returns must be made, by Mayoral candidates and London member candidates, from 35 days to 70 days. *Paragraph 24* adds the Authority to section 82 (dealing with the declaration of election expenses). *Paragraph 25* applies to Assembly members the penalty provisions of section 85, where they fail to make returns or declarations within the specified time period. *Paragraph 26* provides for the disqualification of the Mayor where he or she fails to make returns and declarations within the specified time. *Paragraph 27* provides for the time and place for the inspection of returns and declarations (section 88).

76. *Paragraph 28* disapplies the provisions of section 93 removing the requirement on broadcasters to consult any candidate in an election if one or more candidates are to be interviewed in a programme. This provision would be impracticable to implement in relation to the new electoral arrangements. It was also disapplied for elections to the Scottish Parliament, the Welsh Assembly, and the European Parliament. *Paragraph 29* entitles candidates to the use of certain premises for holding public meetings (section 96). *Paragraph 30* makes Authority elections subject to the bribery provisions of the Act (section 113). *Paragraph 31* disapplies the prohibition on a barrister or solicitor who resides within the Authority's area from being a member of an election court (section 130). *Paragraph 32* amends section 135 to provide for the consequences of the election or return of a London member being declared void. *Paragraphs 33 and 34* provide for election court determinations in respect of the Mayor or Assembly constituency members (section 145). *Paragraph 35* extends the disqualification provisions of section 159 – where a candidate has been reported guilty of corrupt or illegal practice – to the Mayor and Assembly members. *Paragraph 36* provides that in circumstances where a Mayoral candidate cannot be elected because he or she has employed a corrupt agent, the electors second vote is not deemed to have been “thrown away” if it is for a candidate who is not subject to the same incapacity (section 165). *Paragraph 36* provides that in circumstances where a vote for a mayoral candidate is deemed to have been thrown away by virtue of section 165(3), it is only the vote given to that candidate (whether first or second choice) which is thrown away, and not votes for another candidate on the same ballot papers, unless of course they are also deemed to have been thrown away. *Paragraphs 37, 38 and 39* provide for the extension of references to elections under the local government Act (section 189) to include Authority elections, for general provisions as to interpretation (section 202) and for the addition of definitions relating to the Authority (section 203).

Sections 18 and 19: Cost of holding the first ordinary elections

77. *Section 18* provides for the reasonable expenditure of returning officers in relation to the holding of the first election of the Authority to be charged on and paid out of the Consolidated Fund. The Secretary of State may, with Treasury consent, determine the kind of expenditure recoverable and its maximum amount.
78. *Section 19* enables the Secretary of State to incur expenditure himself in support of the first election, on items of expenditure which would not be recoverable by returning officers, for example on the provision of electronic scanning equipment.

Sections 20 to 23: Qualifications and disqualifications

79. *Sections 20 to 23* make provision in respect of qualification and disqualification for being elected and holding the office of Mayor or Assembly member and are based on the provisions of Part V of the Local Government Act 1972 which apply to local authority membership. They apply to the selection of a person to fill a vacancy among London members in the same way as to an election.
80. In addition to the nationality and age conditions set out in section 20, a person must at the time of nomination and election also satisfy at least one of the conditions set out there which establish a connection with Greater London, namely, registration as a

local government elector for Greater London or, during the previous 12 months, holding property, working or residing within Greater London. If a person elected as Mayor or an Assembly member only satisfied the condition of being a local elector for Greater London and, at any time, ceases to be registered as such an elector he ceases to be qualified to hold office and a vacancy will occur.

81. A person is disqualified from being elected or being the Mayor or an Assembly member if he or she:
- Is a member of the staff of the Authority;
 - Holds a disqualifying office or appointment designated by the Secretary of State in an order (which is to be subject to the affirmative resolution procedure in each House of Parliament);
 - Is bankrupt or has made an arrangement whereby his creditors agree to accept less than the full amount of any debts;
 - Has within the previous five years before the day of the election, or since the election, been convicted of any offence and a sentence of imprisonment of at least three months has been imposed without the option of paying a fine instead (this includes a suspended sentence);
 - Is disqualified under Part III of the Representation of the People Act 1983 for corrupt or illegal practices at elections or under section 85A of that Act for late return of expenses;
 - Is disqualified under section 17 or 18 of the Audit Commission Act 1998 (or corresponding statutory provisions which those sections replaced) because, as a local authority member, he incurred or authorised unlawful expenditure or by wilful misconduct caused a loss or deficiency exceeding £2000 (the GLA itself is a local authority for these purposes);
 - Is a paid officer of a London borough council or the Common Council employed under the direction of a committee or sub-committee of that council, or a joint committee, whose membership includes members of that council and persons appointed by the Mayor.
82. The provision allowing the Secretary of State to designate offices or appointments which disqualify a person for being Mayor or an Assembly member (section 21(1)(b)) does not apply to local authorities but is similar to provisions made in respect of the Welsh Assembly and the Scottish Parliament. It might be used, for example, to designate certain public appointments, the holders of which would be disqualified from standing for Mayor or for the Assembly unless they resigned from the posts to which they had been appointed. An example of this would be the Chairman of a Housing Corporation.
83. *Section 23* provides that section 92 of the Local Government Act 1972 (proceedings for disqualification) will apply in relation to the Authority, as it applies in relation to a local authority.
84. This will allow any registered local government elector for Greater London to instigate legal proceedings against any person on the grounds that he acted, or claimed to be entitled to act, as Mayor or as an Assembly member, while in fact being disqualified from acting under section 20 or for failing to meet the qualification criteria set out in section 19 or to make a declaration under section 23, or for having ceased to be Mayor or an Assembly member through resignation or a failure to attend meetings.
85. Proceedings may be brought in the High Court or a magistrates' court but must be brought in the High Court if the person against whom they are brought claims to have been entitled to act. Proceedings may not be brought in respect of an act that took place more than six months before the bringing of the proceedings.

86. Where it is proved that a person acted while not qualified or while disqualified, the High Court has power to declare a vacancy in his office and order forfeiture of monetary sums while a magistrates' court has power only to impose a fine. Where proceedings are instituted in a magistrates' court, that court has power to refer them to the High Court and they must be referred if the High Court so orders at the defendant's request.

Sections 24 to 26: Salaries, expenses and pensions

87. These sections provide for the Mayor and Assembly members to be paid salaries and expenses and to establish a pension scheme. For the first year of the Authority's life the Secretary of State - on the basis of recommendations he has invited the Senior Salaries Review Board (SSRB) to provide - will set the level of the Mayor's and Assembly members' salaries and make provision for the payment of pensions. The Secretary of State has also invited the SSRB to recommend a mechanism for the review and up-rating of these payments. In subsequent years, when it will be for the Authority to determine the level of such payments, it will be expected to have regard to the advice of the SSRB before making such determinations. The Secretary of State's guidance on ethical standards, issued under the provisions of section 66 of this Act, will include guidance on this issue to which the Authority must have regard. To ensure transparency, sections 24(8) and 26(5) require the Authority's standing orders to include provision for the publication of any determination made in relation to salaries or pensions.

Section 28: Declaration of acceptance of office

88. *Section 28* makes provisions about this. Any person elected as Mayor or an Assembly member must make a declaration of acceptance of office in order to be allowed to act in that office. The declaration must be delivered to the proper officer of the Authority within two months of the date of the election, or else a vacancy will be declared.
89. *Section 3(4)* enables the Secretary of State to make detailed arrangements in connection with the first ordinary elections. The Secretary of State may also use this order to make provision specifying how, in connection with the first elections, declarations of acceptance of office are to be made and delivered. The order may for example appoint an officer to receive these first declarations.