

The Explanatory Memorandum to The Local Authority Elections (Wales) Order 2014

This Explanatory Memorandum has been prepared by the Department for Local Government and Communities and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Orders 27.1.

Minister's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Local Authority Elections (Wales) Order 2014. I am satisfied the benefits outweigh the costs.

Leighton Andrews

Minister for Public Services

DATE

1. Description

This Local Authority Elections (Wales) Order 2014 provides for a delay by one year (from 2016 to 2017) to the ordinary elections of councillors to county councils, county borough councils and community councils in Wales.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative Background

The Order is made under sections 87, 105(2) and (3) and 106(1) of the Local Government Act 2000 (“the 2000 Act”).

Sections 26 and 35 of the Local Government Act 1972 provide for ordinary elections of councillors to county councils, county borough councils and community councils to take place in 2004 and every four years thereafter and for councillors in office to retire on the fourth day after an ordinary election has taken place.

Section 87 of the 2000 Act enables the Secretary of State to make an Order to change the year in which ordinary elections of councillors to any specified authority takes place. In Wales a local authority is a county council, a county borough council or a community council.

Section 105(2) and (3) of the 2000 Act sets out that orders under the 2000 Act may make different provision for different cases, authorities, or descriptions of authority and may include provision which modifies an enactment.

Section 106 of the 2000 Act provides that any reference to the Secretary of State in the relevant parts of that Act can be substituted by a reference to the National Assembly for Wales.

Section 162 of and Schedule 11 to the Government of Wales Act 2006 provide for the functions of the National Assembly for Wales to be transferred to the Welsh Ministers.

This instrument follows the Negative Resolution procedure.

4. Purpose and intended effect of the legislation

The Local Authority Elections (Wales) Order 2014 postpones the date of all local government elections from 2016 to 2017 with further elections taking place every four years thereafter.

Since 2004, the ordinary day of election of county and county borough councillors and community councillors in Wales has taken place on the first Thursday in May every four years. The next ordinary day of election of councillors is due to be held on Thursday 5 May 2016.

Elections to town and community councils are held at the same time as elections to county and county borough councils. The Fixed Term Parliament Act 2011 alters the date of the ordinary election for membership of the National Assembly elections from May 2015 to May 2016. The next election of Police and Crime Commissioners is scheduled to take place in May 2016.

Therefore, in May 2016, five elections, with different voting systems, are scheduled to take place on the same day – National Assembly constituency and regional elections; elections to county and county borough councils and elections to town and community councils and the election of Police and Crime Commissioners.

The consequence of all these polls taking place on the same day could potentially result in electors having to deal with 5 ballot papers and three different voting systems.

Moving the ordinary day of the local government elections by one year from May 2016 to May 2017 would prevent the situation of local government elections, National Assembly elections and Police and Crime Commissioner elections being held on the same day in May 2016.

The Isle of Anglesey Local Authorities (Change to the Year of Ordinary Elections) Order 2012, (the 2012 Order), postponed the ordinary day of local government elections from May 2012 to May 2013, with further elections taking place every four years thereafter. The 2013 ordinary local government elections on the Isle of Anglesey have now taken place. The Local Authority Elections (Wales) Order 2014 revokes the 2012 Order and provides for the next ordinary elections for all county, county borough and community councils in Wales to take place in 2017.

One of the effects of the 2014 Order will be that existing councillors of county, county borough and community councils in Wales, will have their term of office extended by one year until May 2017.

5. Consultation

A twelve week consultation sought views on the proposal from Chief Executives and Leaders of County and County Borough Councils; WLGA; Electoral Commission; Political Parties; Town and Community Councils and stakeholders with an interest in electoral matters. The consultation was also posted on the Welsh Government's internet site.

86 responses were received.

The proposal received unanimous support at the WLGA council meeting on 24 February. The proposal was also supported by the Electoral Commission and the returning officers who responded.

The majority of responses favoured changing the ordinary day of local government elections in Wales from May 2016 to May 2017. Those who opposed the proposal commented that combined elections could encourage voter turnout and cost savings could be made by holding elections together.

Responses from some returning officers comment that the arrangements in 1999 when the Assembly elections were combined with the local elections did not work well and that the decoupling of the Assembly and local government elections should continue.

Regulatory Impact Assessment

Options

Option 1: Do nothing. Ordinary elections of county and county borough councillors and community councillors for all local authorities in Wales, except the Isle of Anglesey would take place in May 2016 as scheduled.

Option 2: Postpone by one year the ordinary elections of county and county borough councillors and community councillors for all local authorities in Wales.

Costs and benefits

Option 1

The election of county and community councils would take place at the same time as elections to the National Assembly for Wales and the elections of

Police and Crime Commissioners.

The rules regarding the conduct of elections to the National Assembly for Wales (the Assembly) are contained in the National Assembly for Wales (Representation of the People) Order 2007. That Order provides for polls at an Assembly election and ordinary local government elections to be combined and for the costs of the polls to be apportioned to each election. The Assembly is responsible for paying for Assembly elections. Local government are responsible for paying for their own elections and the cost of Police and Crime Commissioner elections is the responsibility of the Home Office.

The Police and Crime Commissioner Elections Order 2012 provides for the Police and Crime Commissioner elections to be combined with local government elections in Wales . While there is no current legislative provision for the Police and Crime Commissioner elections to be combined with Assembly elections the UK Government is considering making a new order to achieve this objective.

Therefore, under this option there are no additional costs to the Assembly, local government or Police and Crime Commissioners. Combining Assembly elections and ordinary local government elections would mean that the cost of the elections would be shared between the Assembly and local government, thus providing a cost saving. There is potential for a further cost saving if certain electoral functions such as polling stations, polling cards and postal vote packs were carried out together, but this would be at the discretion of those responsible for running the elections and subject to legislation to combine the Police and Crime Commissioners and Assembly elections.

The boundaries of Police Force Areas, Assembly constituencies and electoral regions and local authority boundaries are not coterminous. This creates potential problems, such as electors being on the register owned by one authority but voting in a constituency which is part of another local authority, ensuring the most up to date register is used and that there are sufficient polling stations and equipment. Holding elections to three different administrations with three different voting systems on the same day could cause confusion to the voter. The administration of all these elections taking place on the same day would carry a high risk logistically and the accuracy of the result could be jeopardised.

Some of the logistics to be considered are the capacity of suppliers to produce and distribute the poll cards, ballot papers and postal voting packs; effective recruitment and induction of sufficient staff; dealing with the nomination process and deposits for five elections; criteria for voting varies for each election; ensuring the correct ballot papers are issued for each election and timing of the count.

Option 2

Postponing the year of ordinary local government elections for all county and county borough councils and community councils, from May 2016 to May 2017 will separate the local government elections for all county and county borough councils and community councils in Wales from the National Assembly elections and Police and Crime Commissioner elections.

Postponing the ordinary local government elections by one year will mean the elections of councillors to county and county borough councils and community councils will continue to be held together but stand alone from elections to other administrations.

Responses to the consultation proposing to change the year of the ordinary local government elections to separate them from the Assembly and Police and Crime Commissioner elections received overwhelming support. However, respondents were keen for the election of community councillors to take place at the same time as the election of county councillors.

Local authorities are responsible for paying for their own elections. Holding county and county borough elections and community council elections together means the costs are shared.

The Independent Remuneration Panel for Wales set the basic salary for members of a county and county borough council. For the financial year 2014/15 the basic salary for members of a principal council in Wales is £13,300.

Changing the date of ordinary local government elections in Wales will extend the term of office for members by one year. Principal authorities will be required to pay £16,678,200 in basic salary payments to the 1254 elected members of the 22 principal authorities in Wales.

The cost is not an additional amount as £13,300 is the basic salary payable to members of principal councils.

Separating the local government elections and Assembly and Police and Crime Commissioner elections will reduce confusion for the voter by reducing the number of ballot papers electors will have to consider at each poll. It will reduce the logistical practicality and risk for Returning Officers and electoral administrators associated with running elections by making it easier to combine polling stations, postal voting packs and poll cards. Combining only the Assembly and PCC elections will reduce the number of ballot boxes required and their movement simplifying the verification and counting process.

The Welsh Ministers' preference is option 2.