

The Explanatory Memorandum

The Isle of Anglesey Local Authorities (Change to the Year of the Ordinary Election) Order 2012

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

Minister's Declaration

In my view this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Isle of Anglesey Local Authorities (Change to the Year of the Ordinary Election) Order 2012. I am satisfied that the benefits outweigh any costs.

Carl Sargeant

Minister for Local Government and Communities

6 March 2012

1. Description

This Order provides for a delay by one year to the ordinary day of election of councillors to the Isle of Anglesey County Council and community councillors to the community councils in the Isle of Anglesey county.

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

None

3. Legislative Background

This Order is made under sections 87, 105(2), 106(1)(b) and 106(1)(c) of the Local Government Act 2000 ("the 2000 Act").

Section 26 and section 35 of the Local Government Act 1972 provide that for elections taking place after 2004, the ordinary elections in respect of councillors to principal authorities and community councils shall take place every four years and that councillors in office shall retire on the fourth day after an ordinary election has taken place.

Section 87 of the 2000 Act enables the Secretary of State to introduce 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 or county borough council or a community council.

In its application to Wales, Section 106 of the 2000 Act has the effect that any reference to the Secretary of State 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 Welsh Ministers.

This instrument follows the Negative Resolution procedure .

4. Purpose & intended effect of the legislation

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 elections is scheduled for Thursday 3 May 2012.

Presently there are 40 electoral divisions in the Isle of Anglesey county, each represented on the principal authority by a single elected member. At the 2008 local government elections a significant proportion of councillors were returned to the Isle of Anglesey County Council, unopposed.

In a special inspection report dated March 2011 the Auditor General for Wales recommended that the Isle of Anglesey County Council should adopt a strategy for democratic renewal. He recommended that Welsh Ministers consider directing the Local Government Boundary Commission for Wales (“the Commission”) to review the electoral boundaries in the Isle of Anglesey county with a view to considering the number of councillors and the creation of multi member electoral divisions.

The Commission has consulted on draft proposals and is due to publish its final report and recommendations at the end of April 2012.

Delaying the elections by one year will provide time for the Commission to complete their review and publish their final report. It will also provide time for Welsh Ministers to consider the Commission’s recommendations and for any changes to be brought into effect should the Welsh Ministers so decide. The delay will also enable the democratic renewal work being undertaken in Anglesey to be concluded. This would mean that the ordinary elections could then take place in accordance with any changes to the electoral boundaries and divisions which would by then have been effected.

The term of office of the existing county and community councillors will be extended by one year. Existing county and community councillors will retire on the fourth day after the ordinary day of elections in May 2013.

The effect of the Order will result in the election of councillors to the Isle of Anglesey County Council and community councillors to the community councils in the Isle of Anglesey being held in different years to the election of councillors to other local authorities in Wales. A consultation is however currently underway seeking views on the proposal to defer the elections of councillors to all local authorities in Wales by one year from 2016 to 2017 to avoid national and local elections in Wales being held at the same time. Should Welsh Ministers decide to exercise their powers under section 87 of the 2000 Act and change the years in which the ordinary elections of councillors to local authorities across Wales are held, this would result in synchronisation with the Isle of Anglesey county from 2017 onwards.

5. Consultation

Details of consultation undertaken are included in the Regulatory Impact Assessment below.

Part 2- REGULATORY IMPACT ASSESSMENT

Options

Option 1: Do nothing. Ordinary elections of councillors to the Isle of Anglesey County Council and community councillors to the community councils in the Isle of Anglesey county would be held in May 2012, as scheduled.

Option 2: Postpone by one year the ordinary elections of councillors to the Isle of Anglesey County Council only. The ordinary elections of community councillors to the community councils in the Isle of Anglesey county would be held in May 2012, as scheduled.

Option 3: Postpone the ordinary elections of councillors to the Isle of Anglesey County Council and community councillors to the community councils in the Isle of Anglesey county by one year.

Costs and benefits

Option 1

There are no immediate costs or benefits associated with this option.

The elections of county and community councils would take place in the Isle of Anglesey county at the same time as elections to all other county and county borough and community councils in Wales.

Section 36(4) of the Representation of the People Act 1983 provides that the returning officer may recover the costs incurred relating to the election of a county or county borough councillor. The council may set a fixed scale for this purpose. Provided the amounts incurred does not exceed the scale set (if one is set) the expenditure will be paid by the council.

Section 36(5A) also provides that the costs incurred by a returning officer when holding an election of a community councillor, providing it does not exceed any fixed scale set by the principal council in which the community council is situated, shall be paid by the principal council. The principal council in turn may require any expenditure incurred to be repaid by the Community council.

There would therefore be no immediate cost to the Welsh Government as the expenditure incurred in the conduct of the election would be met by the local authority who could in turn require repayment by the community councils of the costs.

Should the Commission propose significant changes to councillor numbers and electoral divisions in their final report and these be reflected in a subsequent Order, either fresh elections would need to be called – at considerable cost – or the changes would not be effected until the next elections resulting in a potential delay in the democratic renewal of the county.

Option 2

The electoral boundaries of community councils will not be affected by the Commission's proposals. The election of community councillors could go ahead as scheduled in May 2012. The impact of this on community councils would be that they are required to fund the elections themselves.

The effect of the Local Government Elections (Wales) Order 2001 was that local government elections were held separately from elections to the National Assembly for Wales. In consultation responses at that time community councils favoured their elections being combined with elections on county and county borough councils. They cited the burden of cost and voter fatigue as grounds community council elections should not be stand alone.

Community councils would be required to cover the printing cost of ballot papers; the printing costs of poll cards; the delivery costs of poll cards and postal voting ballots. The principal council could also recharge the staff costs for running the election.

Option 3

Changing the year of local government elections in the Isle of Anglesey county will mean that the elections in the county are held in different years to those in other local authority areas in Wales and that inhabitants of the county's right to exercise their vote will be delayed by one year.

A consultation is however currently underway seeking views on the proposal to defer the elections of councillors to all local authorities in Wales, which would normally take place in 2016, by one year to 2017. Should Welsh Ministers decide to exercise their powers under section 87 of the 2000 Act and change the years in which the ordinary elections of councillors to local authorities across Wales are held, this would result in synchronisation with the Isle of Anglesey county in 2017.

Delaying the ordinary elections within the Isle of Anglesey county from 2012 to 2013 will allow any desired changes to be effected as a result of the Commission's recommendations within one year, as opposed to four years, when the next local government elections would be held. This will assist further effective and timely democratic renewal within the county.

Local authorities are responsible for paying for their own elections. Postponing elections to community councils ensures that the elections are held together. The associated costs are shared. Political parties only have to campaign once and voter fatigue is lessened.

The Local Government (Wales) Measure 2011 provides for there to be an Independent Remuneration Panel for Wales (the Panel) whose principal function is to decide the allowances to be paid to County and County borough Councillors in Wales.

In their annual report dated December 2011 the Panel set the basic salary for members of a principal authority in Wales for 2012/13 as £13175.

Extending the term of office of the existing councillors by one year means that Anglesey County Council will be required to pay £527,040 in basic salary payments. This is not an additional cost as this amount would be paid to new councillors also.

For these reasons, Option 3 is the Welsh Ministers' preferred option.

Consultation

A consultation with stakeholders took place over a six week period ending 6 January 2012 on the proposal to change the year of elections of councillors in the Isle of Anglesey county. Those consulted included the Leader of Anglesey County Council, the Chief Executive of Anglesey County Council, the WLGA, Anglesey Commissioners, town and community councils in the county, One Voice Wales, the Electoral Commission and Political Parties.

A total of eleven responses were received to the consultation.

Of those who replied a few were of the view that council elections should be held at the same time across Wales. They noted that the political challenges facing the authority would not be resolved by changing electoral boundaries. They also noted that the running of the Isle of Anglesey County Council should return as soon as possible to elected councillors.

Some respondents did not express a view in favour of or against altering the date but commented that an early decision would be preferred on a practical issue. Some supported changing the date especially for community council elections to ensure they are held at the same time as the elections of county councillors.

At the time of the consultation the Leader of Plaid Cymru, who is also the Assembly Member for the area supported changing the date of the elections. He noted that democracy in the county would be strengthened if the elections took place on new electoral boundaries.

The Welsh Government considers there to be merit in delaying the elections to county and community councils in the Isle of Anglesey county by one year. It will contribute to strengthening democratic renewal in the county, as recommended in the Auditor General's report.