

2004 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**Local Government (Ordinary Day
of Election) (Wales) Order 2004**

EXPLANATORY NOTE

(This note is not part of the Order)

Section 104(1) of the Local Government Act 2003 provides that the National Assembly for Wales may by order change the ordinary day of election of councillors for all local government areas in Wales. This order, made under that section, changes the ordinary day of the 2004 local government elections in Wales so that it is the same as the date of the European Parliamentary elections in that year. It also deals with a number of consequential matters.

The ordinary day for local government elections in England and Wales is usually the first Thursday in May in each election year. Article 2 of this Order provides that, in relation to the 2004 local government elections in Wales, this day shall be changed to be the same as the date of the poll for the European Parliamentary elections in 2004 which is the 10th of June. It also provides that in relation to the 2004 local government elections in Wales—

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

the terms of office of councillors who will be elected at those elections are to be reduced;

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

references to the expected date of these elections in 2004 in the orders made under the powers listed in article 2(5) (which relate to

implementing the recommendations of the Local Government Boundary Commission for Wales, the establishment or dissolution of a community council, the changing of electoral arrangements for a community council and the changing of the year of ordinary local elections) are to be construed in accordance with the change made by article 2(1) of this Order.

Article 3 extends, in relation to local authorities in Wales, the period during which it is not normally permissible to hold a by-election prior to the ordinary day of election for those authorities, so that, in relation to the 2004 elections, this period will last from the 10th of November 2003 (the date on which this period would normally start) until the modified ordinary day of such elections in 2004 as determined in accordance with article 2(1) of this Order.

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Made 2004

Coming into force 31 January 2004

Having consulted the Electoral Commission and such other persons or bodies as it considers appropriate in accordance with section 104(4) and (5) of the Local Government Act 2003⁽¹⁾ and, in exercise of the powers conferred on it by sections 104(1) and (2) and 123(1) of that Act, the National Assembly for Wales makes the following Order.

Name, commencement, application and interpretation

1. — (1) This Order is called the Local Government (Ordinary Day of Election) (Wales) Order 2004 and shall come into force on the 31st of January 2004.

(2) This Order applies to Wales only.

(3) In this Order:

- (a) “local government area” (“*ardal llywodraeth leol*”) has the same meaning as in section 203 of the Representation of the People Act 1983⁽²⁾;
- (b) “principal council” (“*prif gyngor*”) means a council as referred to in section 21 of the 1972 Act; and
- (c) “the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972⁽³⁾.

⁽¹⁾ 2003 c.26.

⁽²⁾ 1983 c.2.

⁽³⁾ 1972 c.70. Section 21 was substituted by section 2 of the Local Government (Wales) Act 1994.

Change of ordinary day in 2004

2.—(1) Notwithstanding section 37 of the Representation of the People Act 1983, in 2004 the ordinary day of election of councillors for all local government areas in Wales shall be the same day as the date of the poll at the European Parliamentary general election⁽⁴⁾ held in that year.

(2) In consequence of the change in the ordinary day of election provided for in paragraph (1) the term of office of any councillor for a local government area in Wales who would otherwise have retired on the fourth day after the original ordinary day of election shall for all purposes be a term ending on the fourth day after the new ordinary day of election.

(3) The term of office of a councillor elected for a local government area in Wales on the ordinary day of election in 2004 provided for in paragraph (1) shall for all purposes be a term ending on the fourth day after the next ordinary election.

(4) In consequence of the change in the ordinary day of election provided for in paragraph (1) section 16(1) of the Representation of the People Act 1985⁽⁵⁾ shall not apply in relation to any elections of community councillors to be held on the ordinary day of election of councillors for local government areas in Wales in 2004.

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

- (a) made, in relation to Wales, under section 58(2) of the 1972 Act (implementation of the recommendations of the Local Boundary Commission for Wales),
- (b) made by a principal council in Wales under section 28(3) of the 1972 Act (establishment or dissolution of a community council),
- (c) made by a principal council in Wales under section 57(6) of the 1972 Act (changing of electoral arrangements for a community council), or
- (d) made, in relation to Wales, under section 87(1) of the Local Government Act 2000⁽⁶⁾ (power to change years in which ordinary elections of councillors are to be held),

⁽⁴⁾ 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).

⁽⁵⁾ 1985 c.50. Section 16(1) provides for the postponement for 3 weeks of the poll at an election of community 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.

⁽⁶⁾ 2000 c.22.

shall be construed as a reference to the ordinary day of election in 2004 of councillors for local government areas in Wales, as provided for in paragraph (1).

Elections to fill casual vacancies

3. In relation to the ordinary elections in 2004 in Wales—

- (a) where a councillor for a principal council would regularly have retired on the fourth day after the ordinary election, section 89(3) of the 1972 Act shall apply in relation to a casual vacancy in that councillor's office as if for "six months before" there were substituted "the period beginning with the 10th of November 2003 and ending immediately before"; and
- (b) where a community councillor would regularly have retired on the fourth day after the ordinary election, rule 8 of the Local Elections (Parishes and Communities) Rules 1986(7) shall apply in relation to a casual vacancy in that councillor's office as if in paragraph (1), for "six months before", and in paragraph (4), for "within six months before", there were substituted "within the period beginning with the 10th of November 2003 and ending immediately before".

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8).

Date

The Presiding Officer of the National Assembly

(7) S.I. 1986/2215.
(8) 1998 c.38.