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

DRAFT STATUTORY INSTRUMENTS

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(**1**) 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(**2**), 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(**3**) held in that year.

(2) Notwithstanding section 3(2) of the Greater London Authority Act 1999(**4**), 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

(**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(**5**).

(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(**6**) 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(**7**) (implementation of recommendations for boundary, structural or electoral changes),

(b) made under sections 14 and 23 of the Local Government and Rating Act 1997(**8**) (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(**9**) (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(**10**) 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(**11**) shall apply in relation to a casual vacancy in his office as

(**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.