

The Coronavirus Bill – elections

The emergency Coronavirus Bill has been published and has had its second reading on Monday at the House of Commons.

25 March 2020

Please note: the information contained in this legal update is correct as of the original date of publication

The emergency Coronavirus Bill has been published and has had its second reading on Monday at the House of Commons. This Bill is set to add clarity to our society during this uncertain period in our country. As part of this Bill, elections are considered following advice from the Electoral Commission which stated there were “growing risks to the delivery of the polls”. Elections have been considered in several aspects including postponement of elections, power to postpone certain other elections and referendums and powers to make supplementary provisions.

Postponement of elections

For local government, elections that were due to be held on 7 May 2020 will now be held instead in 2021. The effect that this has on councillors is that:

- if a councillor is set to retire this year, they will instead retire on the fourth day after the 2021 elections (pursuant to section 7 or 16 of the Local Government Act 1972), therefore the term is extended accordingly.
- if the councillor is returned at election poll in 2021 or fills a vacancy, they are to retire on the fourth day after the ordinary day of election in 2024 (notwithstanding section 7 or 16 of the Local Government Act 1972), therefore the term is reduced accordingly.

The Bill also sets out that the poll for the elections of the Mayor of London, the London Assembly, any mayors of local authorities, any mayors of combined authorities and the Police and Crime Commissioners that would otherwise be held on the 7 May 2020 are to be held instead on the 6 May 2021 (pursuant to section 3(2) of the Greater London Authority Act 1999; regulations under section 9HB of the Local Government Act 2000; an order under Schedule 5B of the Local Democracy, Economic Development and Construction Act 2009; and, section 50(1) of the Police Reform and Social Responsibility Act 2011). This postponement is to be ignored in determining the years in which subsequent elections will be held.

Powers

By regulations made by statutory instruments, the Secretary of State or the Minister for the Cabinet Office may provide that the poll for a ‘relevant’ election or referendum may be extended if necessary as long as the date, or the end date of a period is no later than 6 May 2021. The relevant elections and referendums are laid out in section 58 of the Bill and includes referendums under section 9MB (on governance arrangements) or by virtue of section 9MC (referendums following petition) of the Local Government Act 2000 and elections to fill a vacancy in the office of the Mayor of London or in the office of a police and crime commissioner for a police area. The Bill has also adapted the Recall of MPs Act 2015 to allow a postponement of a recall petition and the Secretary of State or the Minister for the Cabinet Office are able to make supplementary provision via regulations if necessary.

Wales

For the National Assembly for Wales, the Presiding Officer may fix a date for elections for constituency vacancies to fill a vacant seat of a constituency member so that they are held as soon as reasonably practicable. This date may extend past the period required under

section 10(5) or (6) of the Government of Wales Act 2006 but may not exceed past the 6 May 2021 and this postponement must be consulted with the Welsh Ministers beforehand.

Welsh Ministers are also given the power to postpone a local authority election for a casual vacancy in the office of a councillor in a county council, county borough council or community council in Wales. They are also able to make supplementary, consequential or transitional provisions in connection to this Bill.

Northern Ireland

Section 10ZA of the Representation of the People Act 1983 has been amended to state that a canvass must be conducted in 2021, 2030 and every tenth year following 2030.

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