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# RESEARCH PAPER

## COMBINATION OF POLLS

The law stated in this research paper may be in parts out of date. This paper is made available online for the benefit of those who are interested in fuller exposition of electoral law than is contained in our Consultation Paper.<sup>1</sup> Our definitive statement of the law is contained in that paper, however, and readers should beware that the law and citations in this paper may not be fully up to date, as our work researching electoral law commenced in 2012.

### INTRODUCTION

- 1.1 This research paper sets out the law on the combination of polls, one of the most complex, and least well-understood areas of electoral law. It sets out our current thinking on its reform.
- 1.2 Combination of polls is a relatively recent addition to electoral law. The first combination of a UK general election with ordinary district council elections occurred in 1979. Special legislation was passed in order to enable the polls for these elections to be taken together on the same day. In 1985, mandatory and discretionary combination was rolled out across the UK for UK Parliamentary, European Assembly (as it then was) and local government elections.<sup>2</sup>
- 1.3 As new elections have been created, they have been inserted into the combination scheme, either under the legislation passed in 1985 or under their election-specific measure. This has resulted in a patchwork of legislation and complex combination relationships between different elections.
- 1.4 In order to gain an understanding of the law relating to combination of polls, it is necessary to understand and distinguish between two separate concepts: coincidence of elections, and combination of polls.

### Coincidence of elections

- 1.5 The coincidence of elections or referendums means two or more polls for an election or referendum occurring on the same day, in the same area. Coincidence is governed by the rules on incidence of elections, which are discussed in our research paper on timetables. These will determine whether it is possible for two elections to coincide, and how often or rarely it will be so. It is a necessary precondition for polls to be combined that they both coincide and occur in the same area. However, combination rules will not apply to all situations where polls coincide.

<sup>1</sup> Electoral Law: A Joint Consultation Paper ( 9 December 2014)

<sup>2</sup> *Hansard* (HL), 13 March 1985, vol 461, col 180.

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## **Combination of polls**

- 1.6 Where two elections or referendums thus coincide, rules may require or enable the polls to be “taken together”. This is what is meant by combination; certain aspects of electoral administration, for example in relation to preparation for the poll and the procedure in the polling stations (which must be the same for combined polls), are fused for all the polls which are combined.
- 1.7 Combination thus has legal and practical consequences. The legal consequences of combination are as follows:
- (1) Combination rules are engaged which set out the combined functions to be undertaken by one returning officer (“the lead returning officer”), rather than severally by the respective returning officer for each of the combined polls; the combination rules also modify the default election-specific rules so that they make sense for combined polls.
  - (2) The costs of the election will be apportioned between the returning officers for the polls being combined.

### ***Practical consequences***

- 1.8 The practical consequences of combination are said to be several. They include a different voting experience for electors who, on attending a polling station, will be given more ballot papers than at a standalone election, quite possibly using different voting systems. There is also a significant impact on administrators, and the Association of Electoral Administrators, in agreeing to our consideration combination of polls in their response to our scoping consultation, highlighted two main issues:
- (1) The legal framework should attempt to establish and recognise that there is a limit to how many electoral events can be delivered on the same day without overloading administrators, voters and campaigners.
  - (2) The impact of combination on election communications and stationery should be considered. For example, how many ballot papers can be combined within a single postal ballot pack before it becomes unwieldy both to produce and distribute, and for the voter to use effectively to cast their votes?

### ***The conundrum of coinciding but non-combined elections***

- 1.9 As we will see, there are some combinations which election law does not permit. In many other cases, the law grants returning officers a discretion whether to combine two polls. Either of these positions admits of the circumstance that two polls coincide, but are not to be taken together. In those cases the polls must be taken separately.
- 1.10 In such a situation, non-combination does not affect coincidence. Two elections will still occur on the same day, in the same area. Voters will still be invited to vote for both. But combination rules will not apply to the polls, and so there is a question what “separate” polls means, concretely. The only requirement, in law, is that each of the coinciding elections is conducted according to its own election rules, unmodified by any combination rules.

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- 1.11 Viewed through this prism, it seems that where coinciding polls are not combined, a great deal of uncertainty arises as to the legal regulation. Must different polling stations be used? If so, does that mean they cannot be in the same polling place, or staffed by the same presiding officer and clerks? If they can, how is voter confusion to be avoided?
- 1.12 Government has on at least one occasion expressed the view that in such a situation the two elections must be run completely separately. At the second reading of the Elections Bill (enacted as the Elections Act 2001) which extended provisions on combination to Northern Ireland, the then Home Secretary, Jack Straw MP explained that otherwise:
- voters effectively would have to vote twice. Polling could not be in the same room and voters would have to present themselves to polling stations twice to be issued with separate ballot papers.<sup>3</sup>
- 1.13 However, as noted above, this is not made explicit in the law. At a combined poll, for example, a typical combination rule requires each election's ballot paper to be distinguished from the other by a different colour. That helps the voter and that helps administrators, particularly at the count. Accordingly, at elections which may or must be combined, the law's policy is to require administrators to take this step to avoid confusion. However, at elections which coincide, but are not to be combined, this question is totally indeterminate. It is not clear why the law's policy applies in the one case but not the other.
- 1.14 To the extent that the lack of provision for combination of certain polls reflects a desire to keep them separate, our provisional view is that that is better done through incidence rules that prevent them from coinciding than by a regime that admits of the possibility of their coinciding but does not permit them to be combined.
- 1.15 Tables 1 and 2, annexed to this research paper as Appendix A, set out at which coinciding elections polls must, may or may not be combined, as well as which returning officer takes the lead, and where the combination of polls rules for each election can be found.

### **COMBINABLE POLLS**

- 1.16 The rules governing whether polls may be combined with others, and if so which (in short, whether polls are "combinable") are spread across a number of measures; some are found in the Representation of the People Acts 1983 and 1985 (the "1983 Act" and "1985 Act" respectively), others in election-specific measures or other statutory instruments. They are also not easy to interpret. A table detailing the legal provisions applying to each election can be found at Appendix B to this research paper.

<sup>3</sup> *Hansard* (HC), 04 April 2001, vol 366, col 399.

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1.17 The orthodox understanding is that two coinciding polls either must be “taken together” (or, as we call it, combined), or may be combined, or may not be combined. It is important to set out at the outset how one determines which of these options applies.

- (1) Two polls must be combined if, properly interpreted, a legal provision requires them to be taken together where they coincide.
- (2) Two polls may be combined if:
  - (a) combination is not mandatory under (1) above; but
  - (b) a legal provision empowers the polls to be combined.
- (3) Two polls must not be combined if no provision, properly interpreted, requires or empowers such combination. In other words, in the absence of a rule to the contrary, two coinciding polls must be taken separately, in accordance with each poll’s election rules, which will not pay any regard to the coincidence of polls.

#### **Mandatory combination**

1.18 For certain elections, the rules state that coinciding polls must be combined. These are marked in green in our tables 1 and 2 at Appendix A. They include:

- (1) UK Parliamentary general elections and European Parliamentary general elections;
- (2) UK Parliamentary general elections and “ordinary<sup>4</sup> local government elections”;
- (3) European Parliamentary general elections and “ordinary local government elections”;<sup>5</sup>
- (4) National Assembly for Wales elections and “ordinary local government elections”;<sup>6</sup>
- (5) elections for principal areas and elections for parishes and communities, whether ordinary elections or those arising from a vacancy, where the elections are for related areas;<sup>7</sup>
- (6) elections for elected mayors and elections for parishes and communities, whether ordinary elections or those arising from a vacancy, where the elections are for related areas;<sup>8</sup>

<sup>4</sup> This term is explained in paragraph {1.24}.

<sup>5</sup> Representation of the People Act 1985, s 15(1).

<sup>6</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 16(1).

<sup>7</sup> This term is explained in paragraph 1.19.

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- (7) elections for an elected mayor, and one or more of:
- (a) a UK Parliamentary general election;
  - (b) a European Parliamentary election; and
  - (c) an ordinary local government election;<sup>9</sup>
- (8) ordinary elections for Police and Crime Commissioners, and one or more of:
- (a) a UK Parliamentary general election;
  - (b) a European Parliamentary general election;
  - (c) ordinary local government elections; and
  - (d) an election for the return of an elected mayor in England or Wales;<sup>10</sup> and
- (9) local governance referendums in England and one or more of:
- (a) an ordinary election of councillors for a county, district or London borough ward of the local authority holding the referendum, or that of a related area;
  - (b) a UK Parliamentary general election;
  - (c) a UK Parliamentary by-election for a related area;
  - (d) a European Parliamentary general election;
  - (e) a European Parliamentary by-election for a related area;
  - (f) an ordinary Greater London Authority election where the local authority holding the referendum is a London borough;
  - (g) an election for the filling of a vacancy in the office of London Mayor where the local authority holding the referendum is a London borough;
  - (h) an ordinary election of Police and Crime Commissioners;
  - (i) an election for the filling of a vacancy in the office of Police and Crime Commissioner for a related area;

<sup>8</sup> Representation of the People Act 1983, s 36(3), (3AB) and (3AC).

<sup>9</sup> Representation of the People Act 1985, s 15(1)(d), as inserted by Local Authorities (Mayoral Elections) Regulations 2007 SI 2007 No 1024, sch 2.

<sup>10</sup> Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 1.

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- (j) a mayoral election; and
  - (k) another referendum occurring on the same date in the same county;<sup>11</sup> and
- (10) a council tax referendum in England and one or more further referendums held by the same billing authority in relation to amounts calculated the same financial year.<sup>12</sup>

***“Related areas”***

- 1.19 The term “related areas” can be found in many provisions on combination, and it is always defined to mean two areas that are coterminous or one of which is situated wholly or partly within the other.<sup>13</sup> However, the inclusion and definition of this term imports unnecessary detail into combination rules. The question of combination would not arise if the polls for two coinciding elections occurred in coterminous areas. A key point to note is that combination rules only affect the geographical area in which two or more polls coincide.

***Scottish Parliamentary elections***

- 1.20 Once section 2 of the Scotland Act 2012 is brought into force, it will modify section 15 of the 1985 Act to make it obligatory to combine Scottish Parliamentary general elections with UK Parliamentary general elections and European Parliamentary general elections where these occur on the same day. It is not clear when this provision will be commenced; the last Commencement Order relating to the Act was laid in January 2013. Two other provisions in the 2012 Act relating to elections are also not yet in force. Hitherto the policy, evidence in section 4 of the Fixed-term Parliaments Act 2011, was to prevent Scottish and UK Parliamentary elections from coinciding.
- 1.21 No combination of polls rules have yet been drafted for the case where Scottish Parliamentary elections are combined with UK Parliamentary or European Parliamentary elections.

<sup>11</sup> Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, reg 10.

<sup>12</sup> Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, reg 17(1). The term billing authority used in relation to council tax referendums means the district council or London Borough council which is responsible for holding a council tax referendum due to an excessive increase in council tax: Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, reg 2; Local Government Finance Act 1992, s 1(2).

<sup>13</sup> Representation of the People Act 1983, s 36(3A) (this rule does not include the words “wholly or partly”); Representation of the People Act 1985, s 15(3); Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 13(3); National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 293, art 16(3); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 1.

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1.22 The Scottish Parliament (Elections) Order provides that where elections to the Scottish Parliament and those for local government in Scotland occur on the same day, the polls must be combined.<sup>14</sup> However, the incidence rules for Scottish local government elections were changed after the experience of the 2007 elections to prevent these elections from occurring simultaneously. Section 2 of the Scotland Act 2012, once in force, will insert a new provision into section 15 of the 1985 Act, to prevent returning officers from exercising their discretion to combine elections under section 15(2) in the case of Scottish Parliamentary and Scottish local government elections.<sup>15</sup>

***Meaning of “local government” elections***

1.23 An “ordinary” local government election is one which occurs as part of a regular cycle prescribed in statute, rather than one is triggered by the occurrence of a vacancy.<sup>16</sup> In order to ascertain which elections fall under this heading, it is necessary to look at both the 1983 and 1985 Acts. Section 27(2) of the 1985 Act provides that certain sections of that Act, including section 15, are to be read as though they were contained within the 1983 Act. This means that the interpretation provisions of the 1983 Act also apply to section 15 of the 1985 Act.

1.24 Under section 203(1) of the 1983 Act,<sup>17</sup> a “local government election” is defined to include:

- (1) the election of councillors for any electoral area (including both principal areas and parishes and communities);
- (2) any Greater London Authority election (which is further defined to mean the election of the Mayor of London, and the election of constituency and London members of the Greater London Assembly); and
- (3) all elections for elected Mayors.

1.25 The same definition applies where local elections are combined with elections to the National Assembly for Wales, save that Greater London Authority elections are, for obvious reasons, excluded.<sup>18</sup>

<sup>14</sup> Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 13(1). Once section 1 of the Scotland Act 2012 is in force, Scottish Ministers will have the power to amend the Scottish Parliament (Elections) Order, including making provision for the combination of polls.

<sup>15</sup> Scotland Act 2012, s 2(4) inserting subsection (3ZA) into Representation of the People Act 1985, s 15.

<sup>16</sup> See for example Representation of the People Act 1983, s 36(3) and our research paper on Timetables, 1.8 to 1.9.

<sup>17</sup> As amended by the Local Authorities (Mayoral Elections) Regulations 2007 SI 2007 No 1024, sch 2.

<sup>18</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 2.

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- 1.26 Elections to local government in Northern Ireland are also included; section 15(6) of the 1985 Act provides that in relation to Northern Ireland, “ordinary local government election” is to be read as “local election”. In the Electoral Law Act (Northern Ireland) 1962, a “local election” is defined as “an election in a district electoral area for a local authority”.<sup>19</sup> This suggests that only ordinary elections, and not elections arising to fill casual vacancies, are combinable, but this only appears upon a careful reading.
- 1.27 Ordinary elections to local government in Scotland are included by virtue of section 204(1) of the 1983 Act.

***Combination of Mayoral elections with others***

- 1.28 Section 36 of the 1983 Act sets out the situations in which polls at different local elections must or can be taken together. It and section 15 of the 1985 Act form the core provisions for combination of polls in England and Wales. Spreading these provisions across two measures, along with an approach which only envisages combination of two polls rather than a larger number, causes problems when it comes to adding new elections into the combination scheme. This is evident in relation to Mayoral elections.
- 1.29 The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 apply with modifications the provisions of the 1983 and the 1985 Acts, as they govern elections of local government councillors, to the election of mayors. The modified provisions of the 1985 Act make it obligatory to combine polls at mayoral elections with coinciding polls for ordinary principal area or parish and community council elections. However those of the 1983 Act only make obligatory only the combination of a parish and community council by-election with a mayoral election. (which, thus expressed, also covers casual elections). This means that in relation to a coinciding principal area council by-election and mayoral election, it is merely discretionary to combine the poll.<sup>20</sup> In practice, this lacuna will have little practical effect, if all sensible returning officers will combine polls. Rather it is an illustration of the probably unintended consequences of the fragmented and piecemeal way in which the legislation governing combination of polls is arranged.
- 1.30 Another illustration of the complexity of the current approach involves the modification made by schedule 2 of the Local Authorities (Mayoral Elections) Regulations 2007 to section 15 of the 1985 Act, as it is applied by the Regulations to Mayoral elections. The modified section 15(1)(d) adds Mayoral elections to the list of polls mandatorily combined with others. Yet under the 1985 Act, as we note in paragraphs 1.23} and {1.24} above, “local government election” is already defined to include all elections for elected Mayors, as a result of the importation of section 203 of the 1983 Act. The addition of subsection (d) is superfluous.

<sup>19</sup> Electoral Law Act (Northern Ireland) 1962, s 130.

<sup>20</sup> Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 SI No 1024 reg 3(2) to (4), sch 2 and 2A.



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### **Local governance referendums in England**

- 1.31 Where a referendum is required to be held in England due to a proposed change of governance in the local authority, there is a strong obligation in relation to combining the poll for that referendum with the polls for other elections that occur within a similar time frame. Not only must a referendum be taken together with the elections listed above that occur on the same day, but if a referendum is scheduled for any date in the period commencing 28 days before the election and ending 28 days after the election, the date of the referendum must be moved to the date of the election, and the polls taken together.<sup>21</sup>
- 1.32 There is an exception in relation to UK Parliamentary elections, European Parliamentary by-elections, and elections to fill a vacancy in the office of London Mayor or Police and Crime Commissioner. If notice of the date of the referendum is given before notice of the date of one of these elections and the two dates are not the same, the date of the referendum must not be moved. This makes sense as the elections listed above may be called at short notice, after a referendum date has been decided. It would be confusing for voters to change the date of the referendum once it has been publicly announced.
- 1.33 Where an authority has published a notice of referendum, no other authority for a related area may hold a local governance referendum in the period commencing 28 days before the referendum poll and ending 28 days afterwards unless the polls are combined.

### **Discretionary combination**

- 1.34 The vast majority of provisions on combination provide that coinciding polls may be combined if both returning officers agree. These elections are marked in yellow in our tables 1 and 2 at Appendix A. The rules specify that polls (save for those at Northern Ireland Assembly elections) may only be combined where they are to occur in related areas, as defined and discussed above.
- (1) elections to the European Parliament and UK Parliament, where one or both is a by-election;
  - (2) Greater London Authority elections and elections to the UK Parliament, where one or both is a by-election;
  - (3) Greater London Authority elections and elections to the European Parliament, where one or both is a by-election;
  - (4) Greater London Authority elections and local elections in England and Wales, where one or both is a by-election;
  - (5) Greater London Authority elections and mayoral elections in England and Wales, where one or both is a by-election;

<sup>21</sup> Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, reg 10.

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- (6) Scottish local government elections and UK Parliamentary elections, where one or both is a by-election;
  - (7) Scottish local government elections and European Parliamentary elections, where one or both is a by-election;
  - (8) a county council election and a district council election;
  - (9) a mayoral election and a UK Parliamentary by-election;
  - (10) a mayoral election and a EU Parliamentary by-election;
  - (11) a mayoral election and a Greater London Authority election, whether ordinary or to fill a vacancy;
  - (12) a mayoral election and an election to fill a vacancy for a principal area council;<sup>22</sup>
  - (13) elections to the Northern Ireland Assembly and one or more of:
    - (a) UK Parliamentary general elections;
    - (b) European Parliamentary general elections; and
    - (c) ordinary local government elections in Northern Ireland;<sup>23</sup>
  - (14) Scottish Parliamentary elections and Scottish local government elections, where one or both is a by-election;<sup>24</sup>
  - (15) Welsh Assembly elections and local government elections (including elections for principal area and community councils, and mayoral elections) in Wales, where one or both is a by-election;<sup>25</sup>
  - (16) Scottish Parliamentary elections and UK Parliamentary elections;
  - (17) Scottish Parliamentary elections and European Parliamentary elections;<sup>26</sup>
  - (18) Police and Crime Commissioner elections and UK Parliamentary elections where one or both is a by-election;
  - (19) Police and Crime Commissioner elections and European Parliamentary elections where one or both is a by-election; and

<sup>22</sup> Representation of the People Act 1985, s 15(2).

<sup>23</sup> Representation of the People Act 1985, s 15(3A).

<sup>24</sup> Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 13(2).

<sup>25</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 16(2).

<sup>26</sup> Once section 2 of the Scotland Act 2012 is in force.

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- (20) Police and Crime Commissioner elections and local government elections (including Greater London Authority, principal area and parish and community councils, and mayoral elections) where one or both is a by-election;<sup>27</sup>
- (21) a local governance referendum and:
- (a) an election to fill a vacancy in the office of local councillor; or
  - (b) an election to fill a vacancy in a Greater London Assembly constituency;<sup>28</sup> and
- (22) a council tax referendum and one or more of:
- (a) an ordinary election of councillors for a county, district or London borough ward of the billing authority holding the referendum, or that of a related area;
  - (b) a UK Parliamentary general election;
  - (c) a UK Parliamentary by-election for a related area;
  - (d) a European Parliamentary general election;
  - (e) a European Parliamentary by-election for a related area;
  - (f) an ordinary Greater London Authority election where the billing authority is a London borough;
  - (g) an election for the filling of a vacancy in the office of London Mayor where the billing authority is a London borough;
  - (h) an ordinary election of Police and Crime Commissioners;
  - (i) an election for the filling of a vacancy in the office of Police and Crime Commissioner for a related area;
  - (j) a local governance referendum held by the billing authority or in a related area;
  - (k) a mayoral election for the billing authority or in a related area;
  - (l) an election to fill a vacancy in the office of local councillor for a related area;
  - (m) an election to fill a vacancy in a Greater London Assembly constituency for a related area;

<sup>27</sup> Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 1.

<sup>28</sup> Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, reg 10(5).

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- (n) an ordinary election for parish councillors for a related area.<sup>29</sup>

**Sections 15(2) and (3) of the 1985 Act**

- 1.35 A number of the combinations listed above are provided for by sections 15(2) and (3) of the 1985 Act. Section 15(2) provides that the polls at “elections” for related areas may be combined, if the returning officers for both elections agree. In order to interpret the term “election” it is again necessary to turn to the interpretation provisions in the 1983 Act. These indicate that the term “election” refers to a UK Parliamentary election, Greater London Authority elections, elections under the Local Government Act 1972 or Local Government (Scotland) Act 1994 (which comprise elections for principal areas and parishes and communities in England and Wales and local government elections in Scotland), and mayoral elections.<sup>30</sup> Importantly, this definition also includes by-elections, or elections to fill a vacancy, as well as ordinary or general elections.
- 1.36 Through various amendments, European Parliamentary elections, Police Crime Commissioner elections and (prospectively) Scottish Parliamentary elections are also brought within this definition.<sup>31</sup> However, elections to Northern Ireland local government are not caught by section 15(2). This appears to be unintentional – following the approach taken to other elections falling in section 15(1) of the 1985 Act, if it is obligatory to combine ordinary Northern Ireland local government elections with UK Parliamentary or European Parliamentary general elections, combining those elections where they involve elections to fill a vacancy, or by-elections ought to be discretionary.
- 1.37 Subsection (3) excludes “elections under the local government Act which are not local government elections” from those which may be combined. This is strange, as all the elections under both Local Government Acts which this provision refers to are “local government elections” as defined in the 1983 Act.<sup>32</sup> This exclusion may have had historical relevance, and has not been modified since the 1985 Act was passed, but our working assumption is that it is an aberration.

**Scottish Parliament and local government elections**

- 1.38 As noted above, the combination rules still provide for the mandatory combination of polls at Scottish Parliamentary general elections and ordinary local government elections in Scotland. Similarly, polls at Scottish Parliament and local government elections may be combined where one or both of these is a by-election or an election to fill a vacancy.

<sup>29</sup> Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, reg 17.

<sup>30</sup> Representation of the People Act 1983, ss 202(1), 203(1), (1A) and 204(1).

<sup>31</sup> Representation of the People Act 1985, s 15(3); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 1; Scotland Act 2012, s 2(3) (not yet in force).

<sup>32</sup> Representation of the People Act 1983, s 203(1).

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- 1.39 One of the recommendations of the Gould Report was that Scottish Parliamentary and local government elections should never coincide, as the potential for voter confusion given the different voting systems is too great.<sup>33</sup> The incidence rules for Scottish local government elections have been changed<sup>34</sup> to prevent ordinary elections from occurring in a year when a Scottish Parliamentary election will take place, and it is the policy of the Scottish Government to prevent these elections from taking place on the same day in future.
- 1.40 The current combination rule is therefore rendered moot by this policy; however it can also be said to conflict with it. The post-Gould report changes do not deal with the situation where a Scottish Parliamentary by-election or an election to fill a casual vacancy in a local government falls on the same date as an ordinary or a general election to Scottish local government or the Scottish Parliament. In such a case the polls may be combined at the discretion of returning officers, notwithstanding Gould's conclusion Gould that these elections should not be combined.

### ***Local referendums in England***

#### LOCAL GOVERNANCE REFERENDUMS

- 1.41 The regulations on local governance referendums allow them to be taken together with elections to fill vacancies in local government or the Greater London Assembly. The rule which permits this does not contain any prescription as to when the referendum must be planned for this rule to apply. Unlike the other rules which set out discretionary combination for polls at elections, the decision on whether polls should be taken together is unilateral. Where the referendum is to be held in compliance with a direction of the Secretary of State, it is for the Secretary of State to decide whether polls should be combined; in any other case, it is for the local authority holding the referendum to decide.<sup>35</sup>

#### COUNCIL TAX REFERENDUMS

- 1.42 Unlike local governance referendums, it is merely discretionary to combine the polls for council tax referendums occurring in the same time frame as elections (and local governance referendums). Where a council tax referendum is scheduled to occur in the 28 days preceding one of the elections or referendums listed above, it may be rescheduled to take place on the same day, and the polls may be combined.<sup>36</sup>

<sup>33</sup> Electoral Commission, *Scottish Elections 2007: The independent review of the Scottish Parliamentary and local government elections 3 May 2007* (October 2007) p 114 to 115.

<sup>34</sup> By s 1 of the Scottish Local Government (Elections) Act 2009.

<sup>35</sup> Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, reg 10(5).

<sup>36</sup> Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, reg 17.

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- 1.43 The same exception to this rule as discussed above applies in relation to local governance referendums: where notice of the date of referendum is issued before notice of election at a UK Parliamentary election, European Parliamentary by-election, or elections to fill a vacancy in the office of London Mayor or Police and Crime Commissioner, the referendum date should not be moved.

**Combinations not permitted**

- 1.44 No rule expressly forbids any particular combination. Rather, the category of prohibited combinations is made up of those elections whose polls no rule requires or enables to be combined. The necessary implication is that the polls for these elections cannot be combined with each other, and must be taken separately. These elections are marked in red in our tables in Appendix A. They include:

- (1) Welsh Assembly elections and UK Parliamentary elections;
- (2) Welsh Assembly elections and European Parliamentary elections;
- (3) Northern Ireland Assembly elections and UK Parliamentary by-elections;
- (4) Northern Ireland Assembly elections and European Parliamentary by-elections;
- (5) Police and Crime Commissioner elections and Welsh Assembly elections;
- (6) ordinary local government elections in Northern Ireland and a UK Parliamentary or European Parliamentary by-election;<sup>37</sup> and
- (7) elections to fill a vacancy in Northern Ireland local government and any other election or referendum.<sup>38</sup>

- 1.45 It should also be noted that in relation to some groupings of elections it does not make sense to speak of combination of polls as their electoral areas will never overlap. These are marked in grey on our table. It is a nonsense, for example, to talk of combining National Assembly for Wales elections with Scottish local government elections.

***Reasons for non-combination***

**POLICY REASONS WHY POLLS SHOULD NOT BE COMBINED**

- 1.46 There are arguably three reasons why it might be undesirable to combine polls, where they occur on the same day:

<sup>37</sup> See para 1.36 above.

<sup>38</sup> See para 1.26 above.

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- (1) A policy decision has been made not to combine campaigns for the two elections, and allow the politics of, for example, the Welsh Assembly, to mix with Westminster politics; (political disjunction)
  - (2) the potential for confusion of voters, for example where there are different voting systems; (voter confusion)
  - (3) too many polls are being combined – requiring an elector to handle a large number of ballot papers in a polling station; (feasibility)

1.47 Of these three reasons, the first two are, properly analysed, objections to the coincidence of the elections, not their combination. Whether or not polls are combined does not affect whether they will happen on the same day. It is that fact – their coincidence – that will result in the politics at the two elections being conjoined, or voters being confused. The third reason, the feasibility of the combination, does not appear to feature in the law on combination of polls; our current view is that it ought to. We will consider, then, the first two policy rationales, and then consider other prohibited combinations.

*Political disjunction*

1.48 This reason underpins the prohibition of combined of polls at Welsh Assembly and UK or European Parliamentary elections. Until section 2 of the Scotland Act 2012 is in force, this reason applies equally to Scottish Parliamentary elections. The idea is that Westminster or European politics should not colour the contest for devolved legislatures, and vice versa. However, this justification for avoiding combination of polls appears to be losing favour: polls for Northern Ireland Assembly elections may now be combined with UK Parliamentary elections, at the Chief Electoral Officer's discretion. Section 2 of the 2012 Act will make combination of UK and Scottish Parliamentary general elections mandatory.

*Voter confusion*

1.49 It may be undesirable to combine polls for elections with substantially different voting systems. This is the reason behind the policy to uncouple Scottish Parliamentary elections from Scottish local government elections, to prevent them from occurring simultaneously. In the 2007 elections in Scotland, many ballot papers were spoilt due to voters failing to understand and apply the differences between the additional member system and single transferable vote voting systems. We observe, however, that the combination rules remained unchanged after Gould; the solution to the voter confusion issue was to prevent the coincidence of these elections, not their combination.

*Lack of clear rationale for other prohibited combinations*

1.50 By contrast, there are no clear policy reasons why combination should not be permitted for other groupings, where the lack of provision may in fact be due to legislators not turning their minds to the possible desirability of providing for at least the discretionary combination of polls at these elections.

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- 1.51 In relation to Northern Ireland Assembly elections, if they may be combined with UK Parliamentary and European Parliamentary general elections and ordinary local government elections, there is no justification for preventing them from being combined with a by-election for one of those.
- 1.52 There also does not appear to be a policy reason for preventing the combination of Welsh Assembly elections with Police and Crime Commissioner elections. The campaigning for Police and Crime Commissioner elections is unlikely to have a disproportionate effect on campaigning for the Welsh Assembly. In this respect, Police and Crime Commissioner elections could be considered comparable to local government and mayoral elections, whose polls can be combined with those at Welsh Assembly elections.

***Bilateral and multilateral combinations***

- 1.53 The classical approach to combination, evident in subsections 15(1)(a) to (c) of the 1985 Act, is that one poll is combined with a single other poll. Modifications to that section in relation to newer elections, for example mayoral elections, envisage combination with one “or more” of a group of listed polls (a multilateral combination). However it is not clear how rules envisaging only bilateral combinations apply in the case of three or more coinciding polls.
- 1.54 An obvious problem arises where three or more coinciding polls arise in circumstances where combination of two among them is not permitted. For example, if a Welsh Assembly general election coincides with ordinary elections for both Police and Crime Commissioners and local government elections the law is that:
- (1) the Welsh Assembly and the local government polls must be combined;
  - (2) the PCC and local government polls must be combined; but
  - (3) the Welsh Assembly and PCC polls may not be combined.
- 1.55 If these elections were to coincide, the legal position would be a nonsense. The Welsh Assembly and PCC polls cannot be taken separately while also being combined with the local government polls.<sup>39</sup>

***A worked-out combination example***

- 1.56 Some of the problems associated with a bilateral approach to combination can be portrayed by looking at how the law applies to a hypothetical combination. As an example, we consider a UK Parliamentary general election, an ordinary county council election and an election to fill a vacancy in a parish council which occur on the same day in the same area.

<sup>39</sup> The coincidence of a general election to the National Assembly, ordinary PCC elections, and ordinary local government elections was due to occur in May 2016, but the Welsh Government has exercised powers under section 87 of the Local Government Act 2000 to move the date of ordinary elections to May 2017; Local Authority Elections (Wales) Order SI 2014 No 3033.



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#### COMBINABILITY

- 1.57 Polls for the UK Parliamentary election and county council election must be taken together under section 15(1) of the 1985 Act; and polls for the county council election and vacancy in the parish must be taken together under section 36(3AC) of the 1983 Act. However, it is a discretionary matter under section 15(2) whether polls are taken together for a UK Parliamentary election and an election to fill a vacancy in a parish council.
- 1.58 Of course, the returning officers can exercise their discretion to combine the polls. However, the option not to combine the poll for the parish vacancy with the UK Parliamentary poll simply does not make sense in this case.

#### IDENTIFYING THE LEAD RETURNING OFFICER

- 1.59 The next question would be which returning officer takes the lead. On a strict reading of regulation 4 of the Combination of Polls Regulations, the relationship between the returning officers must be considered separately for each election grouping: UK Parliamentary and county council; county council and parish vacancy; and UK Parliamentary and parish vacancy.
- 1.60 This results in the bizarre situation that:
- (1) the UK Parliamentary returning officer is the lead returning officer in relation to the combination of UK Parliamentary and county council elections;
  - (2) the returning officer for the county council election is the lead returning officer in relation to the combination of the county council election and the parish vacancy; and
  - (3) the returning officers have a discretion to choose who should be the returning officer for the combination of the UK Parliamentary and parish vacancy elections.
- 1.61 This is a consequence of the bilateral approach to combination also taken in regulation 4 of the Combination of Polls Regulations, which only sets out the relationship between a specified election and “another election or referendum” with which it may be combined. The only practical interpretation of these provisions in the case of more than two polls being combined is to read the reference to “another election or referendum” as “one or more elections or referendums”.

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## RULES GOVERNING THE COMBINED POLLS

- 1.62 The final question is which rules apply to the combined polls. The current position is that the combination rules amend or supplement each election's rules, which continue to govern the conduct of the poll by each returning officer, except that in the area of combination the lead officer is following two or more sets of election rules, not one.<sup>40</sup>

### **National referendums**

- 1.63 There is no set of standing rules governing national referendums. Instead, it is left to the legislation providing for the holding of a referendum to provide conduct rules, potentially including rules on whether the referendum poll is to be combined with other polls; and in such a case the hierarchy of returning officers is also something which must be settled by the legislation for the referendum in question.
- 1.64 During the passage through Parliament of the Parliamentary Voting System and Constituencies Bill 2011, a number of MPs raised concerns about the proposed combination of the referendum poll and elections to devolved legislatures.<sup>41</sup> It was suggested that the combination could have a distorting effect on the results of both the referendum and the elections, and might result in both results being considered less politically significant.
- 1.65 Nevertheless, the decision to combine the referendum poll with elections to devolved legislatures and local government elections was not revoked. Provisions in the Act required the referendum poll to be taken with those at local elections occurring in England and Wales and Northern Ireland on the referendum date, as well as with elections to devolved legislatures occurring on that date. However, these polls were expressly prohibited from being combined with any other polls, whatever other legislation might require.<sup>42</sup> The Act also specified that the counting officer for the referendum would take over the functions assigned to the lead returning officer under regulation 5 of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (discussed below), and set out specific combination rules in relation to each country of the United Kingdom.<sup>43</sup>

<sup>40</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, sch 2 paras 4 to 29; Local Elections (Principal Areas) (England and Wales) Rules 2006 SI 2006 No 3304, sch 3; Local Elections (Parishes and Communities) (England and Wales) Rules 2006 SI 2006 No 3305, sch 3.

<sup>41</sup> O Gay and I White, *Research Paper 10/72: Parliamentary Voting System and Constituencies Bill 2010-11: Commons Stages* (November 2010), para 3.4.

<sup>42</sup> Parliamentary Voting System and Constituencies Act 2011, s 4.

<sup>43</sup> Parliamentary Voting System and Constituencies Act 2011, schs 5 to 8.

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## **COMBINATION RULES**

- 1.66 Where polls for elections are combinable, the questions arise how the combined polls are to be managed by the elections' respective returning officers (the management issue), and what additional or amended rules should govern the combined polls (the combined conduct rules issue). We address each in turn further below.
- 1.67 The management issue is addressed by requiring a lead returning officer to be identified. That officer will perform, or take over, certain combined functions. They will be undertaking, for example, the equipment of polling stations in the area where polls are combined, and will be verifying ballot papers from combined polling stations. The other election's returning officer still runs that election according to its election rules in the non-combined area. Both elections' returning officers must run their respective elections according to their respective election rules. Within the area of overlap, and as relates the area where polls are combined, the rules apply subject to modifications brought about by the combination, which is what we have called the "combined conduct rules issue".

### **Management of combined polls**

- 1.68 The law's answer to the management issue is to select a returning officer to take the lead in running the combined polls in the area of overlap between the two elections.<sup>44</sup> Outside the area of overlap each returning officer is responsible for their own election.
- 1.69 The way the law identifies the lead officer depends on whether combination is mandatory or discretionary.
- (1) Where the combination is mandatory, the law sets out a hierarchy of returning officers to take the lead in managing the combined polls.
  - (2) Where the combination is discretionary, the returning officers agree who should take the lead role.

### ***Where combination is mandatory: hierarchy of elections***

- 1.70 Where combination is mandatory, in England and Wales and Scotland rules specify which combined election's returning officer shall take the lead, effectively setting out a hierarchy of elections for the purposes of management of combined polls. The position in Northern Ireland is straightforward – the Chief Electoral Officer has the role of returning officer for all elections.

<sup>44</sup> It is possible for one person to be returning officer for both combined polls, but the rules address the situation where different persons hold the offices. Electoral Commission, *Guidance for UK Parliamentary elections, Part G: Combination of polls* (December 2009), para 2.11.

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ELECTIONS RUN BY SEVERAL RETURNING OFFICERS: JUNIOR OFFICERS TEND TO BE ELIGIBLE TO LEAD COMBINATIONS

1.71 At certain elections, a prior question arises. At elections which themselves involve multiple contests which are managed by different returning officers, the question arises as to which of those officers is or are to be eligible to be lead returning officer where the polls for that election are combined with the poll or polls for another election.

- (1) In the case of additional member system elections, the constituency returning officer (CRO) is the eligible returning officer. If such an election is combined with an election lower in the hierarchy, Scottish Parliamentary constituency returning officers, for example, will be the lead officer running combined polls.<sup>45</sup>
- (2) For Police and Crime Commissioner elections, it appears that both the Police Area Returning Officer (PARO) and local returning officer take the role of lead returning officer.<sup>46</sup> This appears to be because, while combinable functions are performed by the local returning officer, some can be taken over by the PARO.<sup>47</sup>

ENGLAND AND WALES

1.72 The relevant rules in England and Wales are the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (“the Combination of Polls Regulations”). From these, as well as the National Assembly for Wales (Representation of the People) Order 2007, a hierarchy as to which election’s returning officer takes the lead can be gleaned; the combined election’s returning officer who is higher up takes the lead. The hierarchy is as follows:

- (1) UK Parliamentary elections;
- (2) National Assembly for Wales and Greater London Authority elections;
- (3) county council elections;
- (4) principal area (other than county council) elections;
- (5) Mayoral elections;

<sup>45</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 para 1; Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 5 para 1(1). Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 4(11)(b)

<sup>46</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 4(11). Similar provision is made for European Parliamentary local returning officers in that regulation, even though those elections’ returning officers are bottom of the hierarchy and can never be lead officer at a combined poll.

<sup>47</sup> Police and Crime Commissioner (Functions of ROs) Regulations 2012/1918, reg 3; the PARO can take over printing ballot papers and verification, the latter combinable and former potentially combinable (insofar as the issue and receipt of postal votes involves printing ballot papers).

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- (6) local governance referendums;
  - (7) parish and community council elections;
  - (8) Police and Crime Commissioner elections; and
  - (9) European Parliamentary elections.<sup>48</sup>

*Local government elections*

- 1.73 It is not entirely clear why the Combination of Polls Regulations make separate provision in the hierarchy of elections for county council elections and other principal area elections. It suggests that there is a mandatory combination requirement for polls at these elections, but this is not the case. If polls at these elections occur in related areas, this could give rise to a discretion to combine, in which case, as we explain below, there is no need for a hierarchy. Similarly, there is no need to distinguish between Greater London Authority and local government elections in the hierarchy, since combination of these elections is discretionary and it is thus for the returning officers to decide which of them shall take the lead.

SCOTLAND

- 1.74 The hierarchy which applies in Scotland is found in the Scottish Parliament (Elections) Order 2010 and the Representation of the People (Scotland) Regulations 1986:
- (1) UK Parliamentary elections;
  - (2) Scottish Parliament elections;
  - (3) Scottish local government elections;
  - (4) European Parliamentary elections.<sup>49</sup>
- 1.75 Much of the 1986 Regulations' provision has been repealed, but that on combination remains in force and determines the lead officer where UK Parliamentary, local government and/or European Parliamentary elections are combined.

<sup>48</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 4; National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 para 1. "Referendum" in reg 4 of the 2004 Regulations is defined as a referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001 SI 2001 No 1298. Those Regulations have since been repealed, but while they were in force only referred to local governance referendums (and not council tax referendums). This is explicable on the basis that it is not obligatory to combine polls for council tax referendum with those for other elections. Council tax referendums are caught by reg 4(8) which allows returning officers to decide which will take the lead in the case of discretionary combination.

<sup>49</sup> Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 5 para 1; Representation of the People (Scotland) Regulations 1986, reg 95.

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1.76 The surviving parts of the 1986 Regulations are seriously out of date. A minor example of this is a reference to the “Assembly”, instead of the European Parliament. This is remedied by section 3 of the European Communities (Amendment) Act 1986, which substitutes a reference to the European Parliament for any reference (however worded) to the “Assembly of the European Communities” in any “enactment or instrument passed or made before the day on which the Single European Act enters into force”. The 1986 Regulations are such an enactment. Nevertheless, the need to read them in the light of the 1986 Act makes the law difficult to access. More seriously, as we explain below, the 1986 Regulations are also out of date in their provision on the issue and receipt of postal votes.

***Where combination is discretionary: free choice***

1.77 If elections are combinable at the discretion of returning officers, it is up to those officers not only whether they agree to combine polls, but also to decide which among them shall take the lead. This discretion is subject to one restriction – a returning officer for a European Parliamentary election may never be the lead returning officer.<sup>50</sup>

1.78 It is not obvious to us why, when the law mandates the choice of lead returning officer based on a hierarchy where polls are mandatorily combined, freedom of choice is granted where combination is discretionary. There may be a justification for this of which we are unaware; conversely it may be that, as a matter of practice, the hierarchy is respected even where combination is discretionary. It can further be observed that where three-way combinations occur, with one set of elections being combined mandatorily, and another at the discretion of officers, there is an obvious problem if returning officers choose to exercise their discretion to select the one among them who is not identified by the hierarchy as the lead officer. For example:

- (1) A UK Parliamentary general election must be combined with an ordinary county council election. The UK Parliamentary returning officer must be the lead officer at the combined polls;
- (2) If a casual vacancy arises for the metropolitan council in the same area as the combined polls above, it may be combined with either (and thus both). The notion that returning officers might choose to designate the metropolitan or county council returning officer as lead officer would be nonsensical. Since the Parliamentary returning officer is lead, they are the only reasonable choice as lead for the combined polls at all three elections.

<sup>50</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 4(8); Representation of the People (Scotland) Regulations 1986, reg 95(4).

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## EUROPEAN PARLIAMENTARY RETURNING OFFICER NEVER LEADS

- 1.79 The policy appears to be to that European Parliamentary returning officers should never be lead officer in the case of combination with another election. On one view, the returning officer responsible for the largest geographical area should be the lead officer, to promote consistency. It may be thought inappropriate for the European Parliamentary Returning Officer to be lead officer in view of the fact that the detailed electoral administration in relation to European Parliamentary elections is done by local returning officers.

### ***Apportionment of costs***

- 1.80 Where polls are combined, the costs associated with the combined poll must be divided equally between all elections, except where a particular cost, such as the printing of ballot papers, can be attributed solely to one election.<sup>51</sup> Similarly, costs for verification of ballot papers should be apportioned, but as the count is not combined, the costs associated with the count are attributed separately with respect to each election. The Fees and Charges Order issued in advance of an election will specify how costs are treated in the case of combination.
- 1.81 The apportionment of costs is one of the only substantive differences that arises where polls occurring on the same day being combined or not. It appears that the apportionment of costs is a significant factor in the tendency to combine polls. Anecdotally, it appears that not combining polls will always be a more expensive option. However, apportionment may have minimal effects on the overall cost of an election, since it only applies to those parts of the elections, in the overlapping area, which are taken together. We are therefore not sure to what extent such anecdotal evidence relates precisely to those costs caught by the law on apportionment of costs at combined elections. It seems to us very arguable that discourse on the cost-saving of combination is tainted by the effect of coincidence of elections on the cost of running them.

<sup>51</sup> Electoral Commission, *Guidance for UK Parliamentary elections, Part G: Combination of polls* (December 2009), paras 2.5 and 7.9 to 7.11. Representation of the People Act 1985, s 15(4); Representation of the People Act 1983, s 36(3B); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 1; Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 13(4); National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 16(4); Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, reg 12(6) and sch 4 table 2; Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, reg 17(7).

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### **Combined functions performed by the lead returning officer**

- 1.82 As noted above, the lead returning officer takes over certain functions in relation to the combined polls, but only for the area of geographical overlap. These are set out below. It is important to distinguish between the nature of such functions, as the law is neither uniform nor clear. In general the lead returning officer's functions are those that must be combined and executed by that officer. Other functions, such as the issue and receipt of postal votes, may be combined, and if so must be exercised by the lead officer. Finally some functions, like the issue of poll cards, may be combined but the law does not stipulate who should perform them. In practice we suspect the only sensible answer is that the lead officer performs them in respect of the combined area.
- 1.83 Quite separate from the issue of combined functions, there is the matter of how the election rules for each election are going to be modified or adapted to take account of the combination with another election – the combined conduct rules issue. We turn to these further below.

#### ENGLAND AND WALES

- 1.84 The functions which the lead returning officer must perform in relation to combined polls in England and Wales are:
- (1) preparation of a corresponding number list in relation to in-person ballot papers;
  - (2) publication of the notice of situation of polling stations, and the voters entitled to vote there;
  - (3) provision of a sufficient number of polling stations and allotting electors to polling stations;
  - (4) appointing presiding officers and clerks for polling stations, and presiding at a polling station;
  - (5) providing specified equipment for polling stations, including notices to voters, ballot boxes and so on;
  - (6) making arrangements for notifying specified persons of the requirement of secrecy;
  - (7) signing the certificate of employment required by constables and persons employed by the returning officer to enable them to vote at a different polling station;
  - (8) authorising polling station staff to remove persons misconducting themselves from polling stations; and



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- (9) verification of ballot paper accounts.<sup>52</sup>

***Postal voting process may be combined***

1.85 Under regulation 65 of the Representation of the People Regulations 2001,<sup>53</sup> the returning officers for combined polls under section 15 of the 1985 Act or section 36 of the 1983 Act may choose whether to combine the issue and receipt of postal ballot papers. If they decide to do so, the following additional functions, in England and Wales, are stated to be combined functions to be taken by the lead returning officer:

- (1) all the functions in relation to issue and receipt of postal ballot papers found in the 2001 Regulations;<sup>54</sup>
- (2) preparation of a corresponding number list in relation to postal ballot papers;
- (3) marking the postal voters list when a postal vote is returned; and
- (4) verification of the personal identifiers of the postal voter.<sup>55</sup>

<sup>52</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 5; National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 para 2.

<sup>53</sup> Representation of the People (England and Wales) Regulations 2001 SI 2001 No 341; Representation of the People (Scotland) Regulations 2001 SI 2001 No 497.

<sup>54</sup> This does not include the printing of postal ballot papers, which is required under the general provision of r 19 of the Representation of the People Act 1983.

<sup>55</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, reg 5; National Assembly for Wales (Representation of the People) Order 2007 SI 2007 sch 4 para 2.

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## SCOTLAND

- 1.86 Broadly the same combination of functions applies to combined polls held in Scotland, except that the 1986 Regulations<sup>56</sup> have not been kept up to date. In particular, they do not deal with functions relating to provisions on the corresponding number list and verification of personal identifiers of the postal voter. They identify the combined functions in part by referring to statute and Regulations that are no longer in force.<sup>57</sup> Moreover, they do not mention the preparation of the corresponding number list or verification of the personal identifiers of the postal voter.<sup>58</sup> This is because regulations 95 and 96 of the 1986 Regulations have not been amended since they came into force; the corresponding number list and personal identifiers came about much later, as did the 2001 regulations governing the postal voting process.
- 1.87 It is arguable that both sets of rules can be read as implicitly referring to legislation that has replaced the provisions that they in fact refer to, but the legislative position is undoubtedly unsatisfactory.
- 1.88 We consider that this is a purely formal problem with the law, and is not intended to change the reality that, at combined elections, just as like at standalone elections, the corresponding number list must be maintained in Scotland and has always been. It is purely an indication of the pitfalls of the current election-specific and highly detailed way in which combination is addressed in law.

### **The relationship between lead officers and directing officers**

#### ***Directing officers***

- 1.89 Certain elections are managed by a two-tier administrative system, with a regional or central returning officer cooperating with and directing a number of local returning officers. The directing officers include the Greater London Returning Officer (“GLRO”), the Police Area Returning Officer (“PARO”), the European Parliamentary returning officer and the Electoral Management Board for Scotland.

<sup>56</sup> Representation of the People (Scotland) Regulations 1986 SI 1986 No 1111, regs 95 and 96. Similar difficulties arise in the Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999 which deals with functions at combined Scottish parliamentary elections and local government elections. The Scotland Act 2012, s 2 will, however, insert a provision into the Representation of the People Act 1985, s 15 to prevent returning officers from exercising their discretion to combine such elections.

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*The power of direction*

- 1.90 The directing officers' power of direction differs slightly between elections, but it is clear that it is a general power to direct the local returning officers as to how to carry out their responsibilities under the governing election rules.<sup>59</sup> This is a different matter from the allocation of a combined functions to entirely to a lead officer, as occurs under the combination rules.

*Relationship with lead officers for combination purposes*

- 1.91 As we noted above, combination rules identify as "lead" returning officer in the elections above the local, and not the directing returning officer. In some cases the election rules have in mind some interaction between the lead returning officer for the combined polls and the regional returning officer. This is evident, for example, in the obligation on the lead returning officer to notify the regional returning officer in the case that polling is adjourned due to riot or open violence.<sup>60</sup>
- 1.92 However there remains some tension between a directing officer's power of direction and the lead returning officer function at combined polls. The power of direction may not always extend to the lead returning officer for the combined poll, where the directing officer and the lead returning officer are running different elections. This could cause uncertainty as to the proper effect of a direction at combined polls.
- 1.93 At Greater London Authority elections, the uncertainty is averted by the fact that the power of direction of the Greater London Returning Officer is expressly extended to the lead returning officer for a combined poll.<sup>61</sup> By contrast the PARO only has the power to direct returning officers for other elections who take the lead in combined polls in relation to the timing of the count.<sup>62</sup>

<sup>59</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, r 11; European Parliamentary Elections Regulations 2004 SI 2004 No 293, reg 9; Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012 SI 2012 No 1918, reg 4.

<sup>60</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, sch 5 r 45, sch 6 r 46, sch 7 r 45; European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 3 para 19; Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012 SI 2012 No 1918, sch 4 para 36.

<sup>61</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, reg 11.

<sup>62</sup> Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012 SI 2012 No 1918, reg 9.

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- 1.94 It is also arguable that the convenor of the Electoral Management Board for Scotland retains the power of direction in relation to Scottish local government elections, even where the lead returning officer is not the returning officer for the local government election. This is because the power of direction extends to returning officers in the exercise of their functions in relation to local government elections. For example, a UK Parliamentary returning officer exercising lead functions at a combined poll will be exercising functions in relation to local government elections, so that arguably directions are binding on that officer as respects the combined poll.<sup>63</sup>
- 1.95 At the other end of the spectrum, the power of direction of the Regional Returning Officer at European Parliamentary elections is expressed as extending only to local returning officers for local counting areas within the region (European Parliamentary Elections Regulations 2004, reg 9). If UK Parliamentary and European Parliamentary general elections are combined, the acting returning officer for UK Parliamentary elections will be the lead returning officer. That officer will not be subject, when exercising combined functions, to directions of the European Parliamentary Regional Returning Officer. The local returning officer will remain subject to directions when conducting the poll outside the combined area, as well non-combined functions within the combined area.

#### **Modifications to election rules where combination occurs**

- 1.96 As we noted above, apart from the matter of who should lead the combined poll, there is the matter of how election rules should govern the combined polls – what we called the “combined conduct rules issue” Combination rules set out modifications to ordinary elections rules where the poll is combined with another election. Both the elections rules and the combination rules are election-specific. The elections rules for each combined election must be modified in order for combination of polls to make sense. There is not a single set of modifications which apply to all elections in the case of combination; instead, for the area where the poll is combined, the provisions for each election apply concurrently, with the necessary modifications.
- 1.97 There are two different drafting approaches to modifying elections rules for the purpose of holding combined polls in Great Britain. One simply sets out the insertions, amendments and omissions to be applied to the ordinary rules, which must be read alongside those rules. The other approach sets out all the elections rules which apply in the case of a combined poll. The effect is the same – although it may be easier for a returning officer to simply turn to a set of rules in the case of a combined poll, rather than having to cross-refer between the rules and the list of modifications.

<sup>63</sup> Local Electoral Administration (Scotland) Act 2011, s 5.

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## ***Modifications to the UK Parliamentary elections rules***

### ***Elections held in England and Wales***

- 1.98 The Combination of Polls Regulations set out the modifications which are made to the Parliamentary Elections Rules where polls at UK Parliamentary elections are combined with those at other elections in England and Wales.<sup>64</sup> The changes introduce new mandatory requirements and discretionary powers, and make different provision depending on whether the Parliamentary returning officer is the lead returning officer or not. Other modifications redraft the rules so that they make sense in relation a combined poll.

#### MANDATORY REQUIREMENTS

- 1.99 One aspect to the modifications where polls are combined is the introduction of additional mandatory requirements. These are:
- (1) the notice of poll must state that polls are being combined, and the names of the other electoral areas;
  - (2) the ballot papers for the Parliamentary election must be a different colour from those for the other elections;
  - (3) a different notice to voters must be put up in polling stations, which explains which polls are being combined;
  - (4) the large print version of the ballot paper for the assistance of partially sighted voters must be provided in the same colour as the ordinary ballot paper;
  - (5) when packaging up voting materials after the close of poll, certain documents must be kept separate in relation to each election or referendum;
    - (a) unused and spoilt ballot papers;
    - (b) tendered ballot papers; and
    - (c) certificates as to employment; and
  - (6) separate ballot paper accounts must be produced in relation to each election or referendum.

#### DISCRETIONARY POWERS

- 1.100 The returning officers have a power to:
- (1) combine poll cards, where they agree to do so;
  - (2) combine ballot boxes, where the lead returning officer chooses to;

<sup>64</sup> Representation of the People (Combination of Polls) (England and Wales) 2004 SI 2004 No 294, sch 2 paras 4 to 29.

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- (3) combine the copies in each polling station of:
- (a) the register, including any notices issued in respect of last minute amendments;
  - (b) the list of proxies;
  - (c) the lists of assisted and tendered votes; and
  - (d) the list of corrections made to the register on the day of the poll.

#### COMBINING THE CORRESPONDING NUMBER LIST

##### *The problem*

- 1.101 In our Consultation Paper chapter on polling we considered the issue of combining corresponding number lists, in relation to Greater London Authority, Scottish Parliament and National Assembly for Wales elections, where multiple contests occur within the same election.<sup>65</sup> We were not entirely clear what running corresponding number lists for multiple polls involved: it could involve two separate overlapping (but distinct) sheets on which boxes for ballot paper and elector numbers are aligned, or it could mean that ballot papers and corresponding elector numbers for the combined polls are all marked on one single, combined sheet. At this point it is helpful to note that there are currently two forms of corresponding number list; one on which the issue of postal ballot papers is recorded, and another for use in polling stations on polling day. An example is set out in Appendix C
- 1.102 The same problems arise in the case of combined polls for different elections. Electors may not wish to take all the ballot papers for elections they are entitled to vote in occurring on that day. If such unwanted ballot papers are then given to the next elector who turns up to vote, ballot paper numbers recorded on corresponding number lists will be out of sync and it is no longer possible for a single entry on the corresponding number list to indicate all ballot papers given to an elector. These problems are exacerbated by the fact that the elections at which polls are being combined may have different franchises, making it inevitable that not all electors will be able to take all ballot papers.

<sup>65</sup> Electoral Law (2014) Law Commission Consultation Paper No 218; Scottish Law Commission Discussion Paper No 158; Northern Ireland Law Commission No 20, Chapter 8 Polling.

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*Elections with different franchises*

- 1.103 The above problems are exacerbated by the fact that the elections at which polls are being combined may have different franchises, making it likely that some electors will be able to take ballot papers for only one of the combined polls. For example, in a combined UK Parliamentary election and local government election EU nationals<sup>66</sup> can vote in the latter but not the former.
- 1.104 Entries on the register are marked with letters which indicate whether an elector is entitled to vote in a polling station. For example, the letter “A” indicates that a voter has applied for a postal vote and so is not entitled to cast an in-person ballot. Examples relating to the franchise include:
- (1) electors with an “L” before their name are members of the House of Lords who are entitled to vote in European Parliamentary elections, local government elections and elections to devolved institutions;
  - (2) electors with a “G” before their name who are EU citizens who can vote in local government elections and elections to devolved institutions; and
  - (3) electors with a “K” before their name who are EU citizens who can vote in European Parliamentary elections, local government elections and elections to devolved institutions.<sup>67</sup>
- 1.105 When producing a polling station register for combined polls, it will be necessary for a returning officer to include all the entries from the register which include electors that are entitled to vote in any of the combined polls. However, the law does not provide for a returning officer to do this: no change is made to the ordinary election rule (under the heading “Equipment of polling stations”) which requires the returning officer to provide each polling station with “copies of the register of electors or such part of it as contains the entries relating to the electors allotted to that station”.<sup>68</sup> In practice, presiding officers will have the entries on the register for voters allocated to their polling station, whether the election is combined or not. Like the case of a voter refusing to take all ballot papers they are entitled to, therefore, the chief difficulty for the presiding officer is how to mark the corresponding number list accurately.

<sup>66</sup> For brevity, we use the term “EU nationals” to refer to those EU nationals who are not also British or Irish nationals.

<sup>67</sup> Electoral Commission, *Handbook for Polling Station Staff* (2010) pp 13 to 14.

<sup>68</sup> In relation to UK Parliamentary elections, Representation of the People Act 1983, sch 1 r 29(3)(c) – this rule is repeated in all other elections rules and is not modified in any combination of polls rules.

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*When the list can be combined*

- 1.106 There is no explicit rule which states that the corresponding number list may or must be combined. But the use of a “combined” corresponding number list is supported by the fact that prescribed forms exist for the list at combined polls. Meanwhile, we noted above that the preparation of the corresponding number list used in polling stations and for the issue and receipt of postal ballot papers (where combined), is a function of the lead returning officer at combined polls.

*The form of corresponding number list*

- 1.107 The difference in the forms of corresponding number list which apply in the case of a standalone election or combined poll is minimal.<sup>69</sup> Examples are provided at Appendix C to this research paper. The only differences are the heading of the corresponding number list, which will set out the elections being taken together to which the list applies, and the instructions under the column headings “ballot paper number” and “unique identifying mark”. These specify that the number and mark for each election or referendum should be identified. However, no further instruction is provided on how this should be done.

*How the list is marked*

- 1.108 In a polling station, there are three possible situations a presiding officer might want to indicate on a combined corresponding number list.
- (1) An elector takes all the ballot papers for all polls occurring in that polling station on that day. All ballot papers have the same number.
  - (2) An elector takes some, but not all of the ballot papers for polls occurring in the polling station on the same day. All ballot papers have the same number.
  - (3) An elector takes ballot papers for combined polls which have different numbers.

<sup>69</sup> Representation of the People (England and Wales) Regulations 2001 SI 2001 No 341, sch 3 forms M1 and M2.



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- 1.109 The elections rules provide no guidance on how these different situations might be recorded. The rules on combining other polling day lists, such as those recording assisted votes, state that entries on those lists are taken as entries in relation to all combined polls, unless there is an indication to the contrary. No such provision is made in relation to the combined corresponding number list. Neither is there a rule, as for the different contests within Welsh Assembly elections, that if an elector takes ballot papers with different numbers, this should be recorded on the corresponding number list and the unused ballot papers with the same numbers cancelled.<sup>70</sup> Guidance produced by the Electoral Commission simply advises returning officers to be particularly careful when managing corresponding number lists for polls which are combined.<sup>71</sup>
- 1.110 If a combined corresponding number list is used, two things should be done to prevent confusion at a later stage:
- (1) the list should be marked to indicate which ballot papers for which elections the elector has taken, if not for all of them; and
  - (2) any ballot papers bearing the same ballot paper number for the combined polls which are not taken should be cancelled, and put to one side as for spoilt ballot papers, so that the corresponding number list (if combined) can remain in sync.
- 1.111 Another option would be to maintain separate corresponding number lists. If this is done, neither of the above actions is necessary; there will be separate entries in relation to each ballot paper for each election, so different elector numbers could be marked against ballot papers for different elections bearing the same number.

#### STATUS OF PARLIAMENTARY RETURNING OFFICER

- 1.112 Regarding the count, the rules make different provision depending on whether the Parliamentary returning officer is the lead returning officer or not. Two modifications relating to the count apply generally, whichever returning officer leads:
- (1) postal ballot papers sent out in the area where the polls are combined can only be handed in to polling stations within the combined area; and
  - (2) the Parliamentary returning officer does not need counting agents to agree in order to pause the count.<sup>72</sup>

<sup>70</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 5 r 50(4).

<sup>71</sup> Electoral Commission, *Guidance for UK Parliamentary elections, Part G: Combination of polls* (December 2009), paras 6.6 and 6.7.

<sup>72</sup> Representation of the People (Combination of Polls) (England of Wales) Regulations 2004 SI 2004 No 294, sch 2 paras 23 and 24.

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- 1.113 In relation to the second point it should be noted that this only applies to UK Parliamentary elections held in England and Wales. For UK Parliamentary elections held in Scotland and Northern Ireland, and all other elections, no change is made to the rules on pausing the count. We are not sure there can be any justification for the difference across jurisdictions.

*Parliamentary returning officer leads*

- 1.114 Where the Parliamentary returning officer is the lead officer, they must verify the ballot paper accounts for all elections and, where issue and receipt of postal votes is combined, count all the postal ballot papers duly returned. All those who are entitled to attend the count for each relevant election or referendum are entitled to attend verification. During verification, the returning officer must separate the ballot papers for the Parliamentary election from those for each of the other elections or referendums.
- 1.115 These are made up into separate packets. The Parliamentary returning officer must then deliver the ballot boxes, packets of unused and spoilt ballot papers, tendered ballot papers and certificates of employment for every other election to the respective returning officer for that election. The copies of the corresponding number lists, as well as the marked copies of the register, and the lists of assisted and tendered votes, must not be delivered to those other returning officers.<sup>73</sup>

*Another returning officer leads*

- 1.116 The Parliamentary returning officer must begin counting as soon as practicable after receiving the ballot boxes and other voting materials from the lead returning officer. There is no obligation to verify, because the assumption is verification will have taken place already.<sup>74</sup>

DRAFTING TO MAKE SENSE OF THE COMBINED POLL

*Obligations in respect of lead returning officer*

- 1.117 Several modifications to the Parliamentary Elections Rules change the rules so that they refer to the lead returning officer. For example:
- (1) notice of the appointment of polling or counting agents must be given to the lead returning officer;
  - (2) notice of adjournment of the poll in the case of riot must be given to the lead returning officer;
  - (3) the voting materials and ballot paper account from each polling station must be delivered to the lead returning officer; and

<sup>73</sup> Representation of the People (Combination of Polls) Regulations 2004 SI 2004 No 294, sch 2 paras 20 to 22.

<sup>74</sup> Representation of the People (Combination of Polls) Regulations 2004 SI 2004 No 294, sch 2 para 22(1AC).

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- (4) the lead returning officer retains the completed polling day lists including the corresponding number list, and is responsible for delivering these to the registration officer after the count.

*Other drafting modifications*

1.118 Other drafting modifications are required to make sense of the fact that polls are combined. For example:

- (1) persons entitled to attend the polling station and verification include all those entitled to attend under the rules for each relevant election or referendum;
- (2) the prescribed questions are modified so that a presiding officer may only ask a voter whether they have already voted at “this Parliamentary election”; and
- (3) in the case of one poll being abandoned or the notice of poll countermanded due to the death of a candidate, the other poll carries on regardless.<sup>75</sup>

*Forms*

1.119 Different forms are also included in the modifications which apply in the case of a combined poll. They are:

- (1) the form of direction for the guidance of voters in voting; and
- (2) the declaration for companions of disabled voters.<sup>76</sup>

1.120 These are simply drafted differently to account for the fact that the polls are combined, although strangely, until a very recent amendment, the form for the guidance of voters at UK Parliamentary elections the instruction “You will be asked to sign for your ballot papers” is included, which was plainly a drafting slip and has been corrected.

<sup>75</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, sch 2 paras 11, 12, 20 and 27 to 27C.

<sup>76</sup> Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 SI 2004 No 294, sch 2 paras 28 and 29.

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- 1.121 There are also different forms of postal voting statement for combined polls – one form applies in the case that issue and receipt of postal ballot papers are combined, and the other where issue and receipt are not combined.<sup>77</sup> The latter form differs from the postal voting statement where elections are taken alone simply in the respect that it reminds voters that even if they have already completed a postal voting statement in relation to one election occurring on the same day, they still have to complete the one they now have in front of them, or their vote may not be counted.

***Modifications to the European Parliamentary elections rules (for elections held in England and Wales)***

- 1.122 The modifications made to the European Parliamentary elections rules in the case of a combined poll are substantially the same as those described above.<sup>78</sup> The main difference is that the modifications have the effect of omitting any reference to verification in the European Parliamentary elections rules.
- 1.123 The reason for this is that, since the hierarchy of returning officers means that a returning officer for a European Parliamentary election will never be the lead returning officer in a combined poll, the rules only need to provide for the role of the subordinate returning officer. The subordinate returning officer will not undertake verification, but will proceed straight to counting the votes once they have received the verified ballot papers.
- 1.124 There is also no obligation to produce a combined notice of poll. This appears to be an omission; all other elections rules for combined polls require one.

***Modifications to the Greater London Authority elections rules***

- 1.125 The rules relating to combination of polls are essentially the same for each of the Authority elections, and are also very similar to the modifications applied to the UK Parliamentary rules in the case of combination.<sup>79</sup> While the corresponding number list may be combined for all the Authority elections at an ordinary election, it may not be combined with the corresponding number lists for other elections with which the ordinary Authority poll is combined.
- 1.126 Some differences worth noting are:

<sup>77</sup> Representation of the People (England and Wales) Regulations 2001 SI 2001 No 341, sch 3 forms H and J.

<sup>78</sup> European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 3 pt 1 paras 3 to 29.

<sup>79</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, schs 5, 6 and 7.

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- (1) As noted above, the GLRO's power of direction is extended to apply to the lead returning officer, even if that returning officer is not the constituency returning officer for the Authority election. The GLRO can direct the lead returning officer to put up certain notices in polling stations and to use joint ballot boxes.<sup>80</sup>
  - (2) The provision on the colour of the ballot paper in the Constituency Member elections rules that apply in the case of a combined poll only specifies that the ballot paper should be a different colour from those used at the other Authority elections, but does not mention other relevant elections or referendums with which the ordinary Authority poll may be combined.<sup>81</sup> This appears to be a mistake – the combined polls rules for the other Authority elections specify that the ballot paper should be a different colour from that used in any other poll with which the poll for the Authority election is taken.
  - (3) The rules for Greater London Authority elections do not include a form of corresponding number list for use at combined polls. This is also true for Scottish Parliamentary and Welsh Assembly elections. The rules on forms for those elections do allow forms to be used with such variations as the circumstances require, although at Greater London Authority elections any variations must comply with directions issued by the GLRO.<sup>82</sup>

***Modifications to the local government elections rules (principal areas and parishes and communities in England and Wales)***

1.127 The local government elections rules for combined polls make substantially the same modifications to the ordinary elections rules as outlined above in relation to UK Parliamentary elections rules.<sup>83</sup> The few differences are set out below:

- (1) Where a local government election is combined with a European Parliamentary election the timetable is changed; the close of nominations is extended to 4 pm on the 19th day before polling day, in line with that for the European Parliamentary election.<sup>84</sup>

<sup>80</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, sch 5 r 28, sch 6 r 29 and sch 7 r 28.

<sup>81</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, sch 5 r 17(8).

<sup>82</sup> Greater London Authority Elections Rules 2007 SI 2007 No 3541, sch 10 para 2; Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 90(1); National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 142(1).

<sup>83</sup> Local Elections (Principal Areas) (England and Wales) Rules 2006 SI 2006 No 3304, sch 3; Local Elections (Parishes and Communities) (England and Wales) Rules 2006 SI 2006 No 3305, sch 3.

<sup>84</sup> Local Elections (Principal Areas) (England and Wales) Rules 2006 SI 2006 No 3304, sch 3 r 1; Local Elections (Parishes and Communities) (England and Wales) Rules 2006 SI 2006 No 3305, sch 3 r 1.

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- (2) The parish and community elections rules for combined polls do not make any provision for the ballot papers at combined polls should be different colours. This seems to be an omission; there is no reason why the rule should not also apply to parish and community elections. This view is supported by the fact that the National Assembly for Wales (Representation of the People) Order 2007, discussed below, includes a modification to the abovementioned rules which imports a requirement for ballot papers to be different colours.<sup>85</sup>

***Modifications to the Welsh Assembly elections rules***

- 1.128 The modifications to the Welsh Assembly elections rules are the same as those applied for the purposes of combined polls at UK Parliamentary elections.<sup>86</sup> The same schedule also sets out (identical) modifications to the combined polls rules for local government elections held in Wales where these are combined with a Welsh Assembly election.<sup>87</sup>
- 1.129 These provisions should be totally unnecessary as provision is made in the local government elections rules themselves, as explained above, for modifications to the rules where polls are combined. However, Welsh Assembly elections are not among the list of elections mentioned in those rules, necessitating a further set of modifications dealing with combination of local government and Welsh Assembly polls. This is an example of elections rules not speaking to each other, and would be avoided if there was simply one set of elections rules for all elections, with a single set of modifications to apply in the case of modification.
- 1.130 The modifications set out in the National Assembly for Wales (Representation of the People) Order 2007 do have the important function of including Welsh language forms, as well as forms of words in Welsh to be used at combined polls. Nevertheless, it should still be possible to achieve this in a single set of combination rules. Furthermore, the approach taken in the 2007 Order to allow combination of local government elections with Welsh Assembly elections is imperfect, as the 2007 Order does not set out modifications to be made to the Mayoral elections rules. The Mayoral Elections (Combination of Polls) Rules do not refer to Welsh Assembly elections, neither do they include any Welsh forms.

<sup>85</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 para 47.

<sup>86</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 paras 5 to 26.

<sup>87</sup> National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 4 paras 27 to 63.

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### ***Modifications to the Mayoral elections rules***

- 1.131 The Mayoral elections rules are also modified in the same way as the UK Parliamentary elections rules to account for combined polls.<sup>88</sup> A further schedule sets out specific forms to be used where mayoral elections are taken together with Police and Crime Commissioner elections.<sup>89</sup>

### ***Modifications to the Police and Crime Commissioner elections rules***

- 1.132 As with other election rules, those for Police and Crime Commissioner elections are modified for combined polls along the same lines as the UK Parliamentary elections rules.<sup>90</sup> Uniquely among election rules, for Police and Crime Commissioner elections the rule on use of school and public rooms is modified. The modification makes it clear that the lead returning officer is entitled to use publicly funded rooms for conducting the poll and verification, and the local returning officer is entitled to use these for the purposes of the count.<sup>91</sup>

### ***Local referendums in England***

- 1.133 Combined polls rules are set out for local governance and council tax referendums held in England, to which the same modifications are applied where polls are combined. These modifications include the clarification regarding school and publicly funded rooms described above in relation to Police and Crime Commissioner elections.<sup>92</sup> The rules which apply in the case of combined polls also specify that the appointment of polling and counting observers, who for referendums undertake a similar rule to polling and counting agents at elections, must be notified to the lead returning officer, if that returning officer is not also the returning officer for the referendum.

### ***Modifications to elections rules for elections held in Scotland***

- 1.134 A very similar pattern is evident for elections held in Scotland, with elections rules being modified along the same lines as the modifications listed above to UK Parliamentary elections rules.<sup>93</sup> However, there are differing rules on whether ballot boxes are combined.

<sup>88</sup> Local Authorities (Mayoral Elections) Regulations 2007 SI 2007 No 1024, sch 3.

<sup>89</sup> Local Authorities (Mayoral Elections) Regulations 2007 SI 2007 No 1024, sch 3A.

<sup>90</sup> Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4.

<sup>91</sup> Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 4 para 18.

<sup>92</sup> Local Authorities (Conduct of Referendums) (England) Regulations 2012 SI 2012 No 323, sch 5; Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 SI 2012 No 444, sch 5.

<sup>93</sup> Representation of the People (Scotland) Regulations 1986 SI 1986 No 1111, reg 98; European Parliamentary Election Regulations 2004 SI 2004 No 293, sch 3 paras 2 to 28; Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 5 paras 4 to 40; Scottish Local Government Elections Order 2011 SSI 2011 No 399, sch 2.

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## BALLOT BOXES AT COMBINED POLLS IN SCOTLAND

- 1.135 The elections rules for UK Parliamentary elections are modified to state that the same ballot boxes must be used where the poll at a Parliamentary election in Scotland is combined with either a European Parliament or local government election.<sup>94</sup> The elections rules of European Parliamentary elections as modified for combined polls held in Scotland state that ballot boxes may be combined, and the same applies for elections to Scottish local government when combined with UK or European Parliamentary elections.<sup>95</sup>
- 1.136 The elections rules where the polls at Scottish Parliamentary elections are combined with those at Scottish local government elections require that separate ballot boxes must be used.<sup>96</sup> We noted in our research paper that Scottish Parliamentary elections, taken alone, themselves involve multiple ballot papers thus raising the question whether to combine ballot boxes. The answer given in those elections – unlike analogues in England and Wales – is not to provide a power to combine.
- 1.137 This mixture of approaches to combined ballot boxes in Scotland is at best confusing for administrators and voters, even if it can be said that the incidence rules for Scottish Parliamentary and local government elections will prevent polls from occurring on the same day and being combined. It also has the potential to cause problems in the case of combination of polls at UK Parliamentary elections and other elections in Scotland, as one set of rules requires joint ballot boxes, and the others leave it to the discretion of the returning officer. In the case of a combined poll, both sets of rules apply concurrently.
- 1.138 The 1986 Regulations, which set out the modifications to be applied to the Parliamentary Elections Rules, are outdated and have not been amended to take account of recent developments, such as the use of a corresponding number list rather than counterfoils.<sup>97</sup> The modern approach, which applies to all elections in England and Wales, gives the lead returning officer the discretion to combine ballot boxes if they see fit.
- 1.139 It seems correct to apply this to elections in Scotland as well. Scottish Parliament elections may however be an exception; at general Scottish Parliamentary elections separate ballot boxes must be provided for constituency and regional ballot papers.<sup>98</sup> We will be enquiring into what the policy reason is for this requirement before coming to a conclusion as to whether the position should be the same for all elections.

<sup>94</sup> Representation of the People (Scotland) Regulations 1986 SI 1986 No 1111, reg 98(5).

<sup>95</sup> European Parliamentary Election Regulations 2004 SI 2004 No 293, sch 3 para 5; Scottish Local Government Elections Order 2011 SSI 2011 No 399, sch 2 para 5.

<sup>96</sup> Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 5 paras 9 and 25.

<sup>97</sup> Representation of the People (Scotland) Regulations 1986 SI 1986 No 1111, reg 98(18).

<sup>98</sup> Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 2 r 38(1).



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### ***Elections in Northern Ireland***

- 1.140 Yet another different drafting approach is applied to deal with combined polls at elections in Northern Ireland. Fewer modifications to the ordinary rules are necessary, as there is only one returning officer for Northern Ireland – the rules do not need to provide for functions undertaken by a lead or subordinate returning officer. Perhaps for this reason, rules on combination for UK Parliamentary and local government elections in Northern Ireland are inserted (by the Elections Act 2001) directly into the ordinary elections rules, rather than being contained in a separate schedule. The European Parliamentary Elections (Northern Ireland) Regulations follow the approach in Great Britain. Recent provision has been made for the local elections rules to be amended where local elections are combined with European Parliamentary elections in Northern Ireland.<sup>99</sup>
- 1.141 The Northern Ireland Assembly Elections Order 2001 applies provisions of the Parliamentary Elections Rules, sometimes with modifications, for the conduct of Northern Ireland Assembly elections. It is not clear whether the rules are applied with or without the modifications made by the Elections Act 2001. Some provision for combined polls in the Northern Ireland Assembly Elections rules would seem necessary, since at the discretion of the Chief Electoral Officer they may be combined with the polls for any other election in Northern Ireland. However, rule 46A of the Parliamentary Elections Rules (as amended by the 2001 Act), which allows the returning officer to sort ballot papers inserted into the wrong ballot box at combined polls, is not applied to Northern Ireland Assembly elections.
- 1.142 Essentially the same modifications are made to rules at elections in Northern Ireland where polls are combined, as have been discussed in relation to UK Parliamentary elections above, save for the provisions which are a consequence of the relationship between the lead and subordinate returning officers.<sup>100</sup> Two further differences exist in Northern Ireland:
- (1) An additional rule requires that the notice for the direction of voters should be of the same colour as the ballot paper for the election in question. This may be particularly helpful in the context of combining polls at first past the post elections with those at STV elections, where it will be important for electors to know which voting system to use on which ballot paper.<sup>101</sup>

<sup>99</sup> Local Elections (Northern Ireland) Order 2013 SI 2013 No 3156, sch 1.

<sup>100</sup> Elections Act 2001, sch 1; European Parliamentary Elections (Northern Ireland) Regulations 2004 SI 2004 No 1267, sch 6 paras 3 to 17; Local Elections (Northern Ireland) Order 2013 SI 2013 No 3156, sch 1.

<sup>101</sup> Elections Act 2001, sch 1 paras 5 and 19; European Parliamentary Elections (Northern Ireland) Regulations 2004 SI 2004 No 1267, sch 6 para 6; Local Elections (Northern Ireland) Order 2013 SI 2013 No 3156, sch 1 para 7.

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- (2) An extra provision is introduced into the rules for UK Parliamentary and local government elections in Northern Ireland, which allows the returning officer to provide for the sorting of ballot papers inserted into the wrong box at combined polls.<sup>102</sup>

***The effect of the combination of polls rules***

- 1.143 Notwithstanding the sheer number of modifications, the substantive changes made to the ordinary elections rules in combined polls are relatively small. Chiefly, they are that ballot papers must be of a different colour, and that the notice of poll must state which polls are being taken together; occasionally there is a power or duty to combine ballot boxes. Most amendments are simply due the nature of the drafting in election rules which govern the conduct of a returning officer in respect of that specific election; modifications are required in order to facilitate the running of more than one poll by the same “lead returning officer”.

WHAT DOES NON-COMBINATION PREVENT?

- 1.144 The combination rules can help shed light on what it means to run two coinciding, but not combined polls. The implication, where polls are not combined, is that separate ballot boxes must be used; The same polling day lists may not be used. Different corresponding number list must be run. However, we find it well arguable that the same polling place can be used to situate the respective polling stations for the non-combined polls, and perhaps even that the same persons may be appointed to staff the polling stations in respect of those two polls. The ultimate legal requirement is that each non-combined poll is run according to its discrete and unmodified election rules, and since combination rules make such minimal substantive alteration to those, we take the view that non-combined polls are perfectly possible.
- 1.145 However, from a legal policy point of view, the regulation of non-combined polls is too uncertain. There is no legal prescription for what happens in such a situation. Furthermore, the law is inconsistent. If it is right, as a matter of legal policy, to prescribe the use of different coloured ballot papers at a combined poll, the implication is that the law so values reducing the scope for voter and administrative confusion that it considers it important to require ballot papers for different polls to be distinguished by colour. At coinciding, non-combined polls, however, the law leaves the returning officers for the elections (since no lead officer exists) a discretion whether to use differently coloured ballot papers.

<sup>102</sup> Elections Act 2001, sch 1 paras 12 and 27; Local Elections (Northern Ireland) Order 2013 SI 2013 No 3156, sch 1 para 17.



# APPENDIX A

TABLE 1

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
European Parliament (general)	RPA 1985, s 15(1)(a) <i>UK Parliamentary RO SI 2004/294, reg 4(1); SI 1986/1111, reg 95(1) SI 2004/294, sch 2 paras 4 to 29, SI 1986/1111, reg 98, Elections Act 2001, sch 1 pt 1; SI 2004/293, sch 3, SI 2004/1267, sch 6</i>	RPA 1985, s 15(2) (where "related areas") <i>UK Parliamentary RO SI 2004/294, reg 4(8); SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29; SI 1986/1111, reg 98, Elections Act 2001, sch 1 pt 1; SI 2004/293, sch 3, SI 2004/1267, sch 6</i>								

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
European Parliament (by)	RPA 1985, s 15(2) UK Parliamentary RO SI 2004/294, reg 4(8); SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29, SI 1986/1111, reg 98, Elections Act 2001, sch 1 pt 1; SI 2004/293, sch 3, SI 2004/1267, sch 6	RPA 1985, s 15(2) (where "related areas") UK Parliamentary RO SI 2004/294, reg 4(8); SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29, SI 1986/1111, reg 98, Elections Act 2001, sch 1 pt 1; SI 2004/293, sch 3, SI 2004/1267, sch 6								
Scottish Parliament (general)	Scotland Act 2012, s 2(1)(a) modifying RPA 1985, s 15(1) (Not yet in force) SI 1986/1111, reg 98	RPA 1985, s 15(2) (where "related areas") (once Scotland Act 2012 in force) SI 1986/1111, reg 98	Scotland Act 2012, s 2(1)(a) modifying RPA 1985, s 15(1) (Not yet in force) SI 2004/293, sch 3	RPA 1985, s 15(2) (where "related areas") (once Scotland Act 2012 in force) SI 2004/293, sch 3						

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
Scottish Parliament (by)	RPA 1985, s 15(2) (once Scotland Act 2012 in force) SI 1986/1111, reg 98	RPA 1985, s 15(2) (where "related areas") (once Scotland Act 2012 in force) SI 1986/1111, reg 98	RPA 1985, s 15(2) (where "related areas") (once Scotland Act 2012 in force) SI 2004/293, sch 3	RPA 1985, s 15(2) (where "related areas") (once Scotland Act 2012 in force) SI 2004/293, sch 3						
National Assembly for Wales (general)										
National Assembly for Wales (by)										
Northern Ireland Assembly (general)	RPA 1985, s 15(3A) <i>CEONI</i> Elections Act 2001, sch 1 pt 1		RPA 1985, s 15(3A) <i>CEONI</i> Elections Act 2001, sch 1 pt 1; SI 2004/1267, sch 6							
Northern Ireland Assembly (by)	RPA 1985, s 15(3A) <i>CEONI</i> Elections Act 2001, sch 1 pt 1		RPA 1985, s 15(3A) <i>CEONI</i> Elections Act 2001, sch 1 pt 1; SI 2004/1267, sch 6							

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
Greater London Authority (ordinary)	RPA 1985, s 15(1)(b) UK Parliamentary RO SI 2004/294, reg 4(1) SI 2004/294, sch 2 paras 4 to 29; SI 2007/3541, schs 5 to 7	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2007/3541, schs 5 to 7	RPA 1984, s 15(1)(c) GLA CRO SI 2004/294, reg 4(2) and (11)(b) SI 2007/3541, schs 5 to 7; SI 2004/293, sch 3	RPA 1985, s 15(2) GLA CRO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2004/293, sch 3						
Greater London Authority (vacancy)	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2007/3541, schs 5 to 7	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2007/3541, schs 5 to 7	RPA 1985, s 15(2) GLA CRO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2004/293, sch 3	RPA 1985, s 15(2) GLA CRO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2004/293, sch 3						

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
<b>Principal areas (E+W) (ordinary)</b>	RPA 1985, s 15(1)(b) <i>UK Parliamentary RO SI 2004/294, reg 4(1)SI 2004/294, sch 2 paras 4 to 29; SI 2006/3304, sch 3</i>	RPA 1985, s 15(2) <i>Either RO SI 2004/294, reg 4(8)SI 2004/294, sch 2 paras 4 to 29; SI 2006/3304, sch 3</i>	RPA 1985, s 15(1)(c) <i>Principal area RO SI 2004/294, reg 4(3) and (4)SI 2004/293, sch 3; SI 2006/3304, sch 3</i>	RPA 1985, s 15(2) <i>Principal area RO SI 2004/294, reg 4(8)SI 2004/293, sch 3; SI 2006/3304, sch 3</i>			NAW Order 2007, art 16(1) <i>NAW CRO SI 2007/236, sch 4 para 1(1)SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 3</i>	NAW Order 2007, art 16(2) (where related areas) <i>Either RO SI 2007/236, sch 4 para 1(2)SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 3</i>		
<b>Principal areas (E+W) (vacancy)</b>	RPA 1985, s 15(2) <i>Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3304, sch 3</i>	RPA 1985, s 15(2) <i>Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3304, sch 3</i>	RPA 1985, s 15(2) <i>Principal area RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2006/3304, sch 3</i>	RPA 1985, s 15(2) <i>Principal area RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2006/3304, sch 3</i>			NAW Order 2007, art 16(2) (where related areas) <i>NAW CRO SI 2007/236, sch 4 para 1(4) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 3</i>	NAW Order 2007, art 16(2) (where related areas) <i>Either RO SI 2007/236, sch 4 para 1(2) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 3</i>		



	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
Parishes and communities (E+W) (ordinary)	RPA 1985, s 15(1)(b) UK Parliamentary RO SI 2004/294, reg 4(1) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3305, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3305, sch 3	RPA 1985, s 15(1)(c) Parish/community RO SI 2004/294, reg 4(7) SI 2004/293, sch 3; SI 2006/3305, sch 3	RPA 1985, s 15(2) Parish/community RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2006/3305, sch 3			NAW Order 2007, art 16(1) NAW CRO SI 2007/236, sch 4 para 1(1) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 4	NAW Order 2007, art 16(2) (where related areas) Either RO SI 2007/236, sch 4 para 1(2) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 4		
Parishes and communities (E+W) (vacancy)	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3305, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2006/3305, sch 3	RPA 1985, s 15(2) Parish/community RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2006/3305, sch 3	RPA 1985, s 15(2) Parish/community RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2006/3305, sch 3			NAW Order 2007, art 16(2) (where related areas) NAW CRO SI 2007/236, sch 4 para 1(4) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 4	NAW Order 2007, art 16(2) (where related areas) Either RO SI 2007/236, sch 4 para 1(2) SI 2007/236; sch 4 pt 2; SI 2007/236, sch 4 part 4		

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
<b>Scottish Local Government (ordinary)</b>	RPA 1985, s 15(1)(b) UK Parliamentary RO SI 1986/1111, reg 95(2) SI 2004/294, sch 2 paras 4 to 29; SSI 2011/399, schs 2 to 4	RPA 1985, s 15(2) Either RO SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29; SSI 2011/399, schs 2 to 4	RPA 1985, s 15(1)(c) Local RO SI 1986/1111, reg 95(3) SI 2004/293, sch 3; SSI 2011/399, schs 2 to 4	RPA 1985, s 15(2) Local RO SI 1986/1111, reg 95(4) SI 2004/293, sch 3; SSI 2011/399, schs 2 to 4	SP Order, art 13(1); Local Government (Scotland) Act 1994, s 5. SP CRO SI 2010/2999 sch 4 para 1(1) SI 2010/2999, sch 5 pt 2; SI 2010/2999, sch 5 pt 3	SP Order, art 13(2) Either RO SI 2010/2999, sch 4 para 1(2) SI 2010/2999, sch 5 pt 2; SI 2010/2999, sch 5 pt 3				

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
Scottish Local Government (vacancy)	RPA 1985, s 15(2) <i>Either RO SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29; SSI 2011/399, schs 2 to 4</i>	RPA 1985, s 15(2) <i>Either RO SI 1986/1111, reg 95(4) SI 2004/294, sch 2 paras 4 to 29</i>	RPA 1985, s 15(2) <i>Local RO SI 1986/1111, reg 95(4) SI 2004/293, sch 3; SSI 2011/399, schs 2 to 4</i>	RPA 1985, s 15(2) <i>Local RO SI 1986/1111, reg 95(4) SI 2004/293, sch 3; SSI 2011/399, schs 2 to 4</i>	SP Order, art 13(2) <i>Either RO SI 2010/2999, sch 4 para 1(2) SI 2010/2999, sch 5 pt 2; SI 2010/2999, sch 5 pt 3</i>	SP Order, art 13(2) <i>Either RO SI 2010/2999, sch 4 para 1(2) SI 2010/2999, sch 5 pt 2; SI 2010/2999, sch 5 pt 3</i>				
Northern Ireland local government (ordinary)	RPA 1985, s 15(1)(b) and (6) <i>CEONI Elections Act 2001, sch 1 pt 1; Elections Act 2001, sch 1 pt 2</i>		RPA 1985, s 15(1)(c) and (6) <i>CEONI SI 2004/1267, sch 6; Elections Act 2001, sch 1 pt 2</i>						RPA 1985, s 15(3A) and (6) <i>CEONI Elections Act 2001, sch 1 pt 1; Elections Act 2001, sch 1 pt 2</i>	RPA 1985, s 15(3A) and (6) <i>CEONI Elections Act 2001, sch 1 pt 1; Elections Act 2001, sch 1 pt 2</i>

	UK Parliament (general)	UK Parliament (by)	European Parliament (general)	European Parliament (by)	Scottish Parliament (general)	Scottish Parliament (by)	National Assembly for Wales (general)	National Assembly for Wales (by)	Northern Ireland Assembly (general)	Northern Ireland Assembly (by)
Northern Ireland local government (vacancy)										
Elected Mayors	RPA 1985, s 15(1)(d)UK Parliamentary RO SI 2004/294, reg 4(1)SI 2004/294, sch 2 paras 4 to 29; SI 2007/1024, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8)SI 2004/294, sch 2 paras 4 to 29; SI 2007/1024, sch 3	RPA 1985, s 15(1)(d) Mayoral election RO SI 2004/294, reg 4(5)SI 2004/293, sch 3; SI 2007/1024, sch 3	RPA 1985, s 15(2) Mayoral election RO SI 2004/294, reg 4(8)SI 2004/293, sch 3; SI 2007/1024, sch 3			NAW Order 2007, art 16(2) (where related areas) NAW CRO SI 2007/236, sch 4 para 1(4)SI 2007/236; sch 4 pt 2; SI 2007/1024, sch 3	NAW Order 2007, art 16(2) (where related areas) Either RO SI 2007/236, sch 4 para 1(2)SI 2007/236; sch 4 pt 2; SI 2007/1024, sch 3		
Police and Crime Commissioner	PCC Order, sch 4 para 1 UK Parliamentary RO SI 2004/294, reg 4(1) SI 2004/294, sch 2 paras 4 to 29; SI 2012/1917, sch 4 pt 3	PCC Order, sch 4 para 1 Either RO SI 2004/294, reg 4(8) SI 2004/294, sch 2 paras 4 to 29; SI 2012/1917, sch 4 pt 3	PCC Order, sch 4 para 1 PARO or local RO SI 2004/294, reg 4(7A) SI 2004/293, sch 3; SI 2012/1917, sch 4 pt 3	PCC Order, sch 4 para 1 PARO or local RO SI 2004/294, reg 4(8) SI 2004/293, sch 3; SI 2012/1917, sch 4 pt 3						



**TABLE 2**

	Greater London Authority (ordinary)	Greater London Authority (vacancy)	Principal areas (E+W) (ordinary)	Principal areas (E+W) (vacancy)	Parishes and communities (E+W) (ordinary)	Parishes and communities (E+W) (vacancy)	Scottish Local Government (ordinary)	Scottish Local Government (vacancy)	Northern Ireland local government (ordinary)	Northern Ireland local government (vacancy)	Elected Mayors
Principal areas (E+W) (ordinary)	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8)SI 2007/3541, schs 5 to 7; SI 2006/3304, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8)SI 2007/3541, schs 5 to 7; SI 2006/3304, sch 3									
Principal areas (E+W) (vacancy)	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3304, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3304, sch 3									
Parishes and communities (E+W) (ordinary)	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3305,	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3305,	RPA 1983, s 36(3), (3AB) and (3AC) Principal area RO SI 2004/294, reg 4(3) and (4) SI 2006/3304,	RPA 1983, s 36(3), (3AB) and (3AC) Principal area RO SI 2004/294, reg 4(3) and (4) SI 2006/3304,							

	Greater London Authority (ordinary)	Greater London Authority (vacancy)	Principal areas (E+W) (ordinary)	Principal areas (E+W) (vacancy)	Parishes and communities (E+W) (ordinary)	Parishes and communities (E+W) (vacancy)	Scottish Local Government (ordinary)	Scottish Local Government (vacancy)	Northern Ireland local government (ordinary)	Northern Ireland local government (vacancy)	Elected Mayors
	sch 3	sch 3	sch 3; SI 2006/3305, sch 3	sch 3; SI 2006/3305, sch 3							
Parishes and communities (E+W) (vacancy)	RPA 1985, s 15(2) <i>Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3305, sch 3</i>	RPA 1985, s 15(2) <i>Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2006/3305, sch 3</i>	RPA 1983, s 36(3), (3AB) and (3AC) <i>Principal area RO SI 2004/294, reg 4(3) and (4) SI 2006/3304, sch 3; SI 2006/3305, sch 3</i>	RPA 1983, s 36(3), (3AB) and (3AC) <i>Principal area RO SI 2004/294, reg 4(3) and (4) SI 2006/3304, sch 3; SI 2006/3305, sch 3</i>							
Scottish Local Government (ordinary)											

	Greater London Authority (ordinary)	Greater London Authority (vacancy)	Principal areas (E+W) (ordinary)	Principal areas (E+W) (vacancy)	Parishes and communities (E+W) (ordinary)	Parishes and communities (E+W) (vacancy)	Scottish Local Government (ordinary)	Scottish Local Government (vacancy)	Northern Ireland local government (ordinary)	Northern Ireland local government (vacancy)	Elected Mayors
Scottish Local Government (vacancy)											
Northern Ireland local government (ordinary)											
Northern Ireland local government (vacancy)											
Elected Mayors	RPA 1985, s 15(1)(d) GLA CRO SI 2004/294, reg 4(2) and (11)(b)SI 2007/3541, schs 5 to 7; SI 2007/1024, 2007/1024,	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8)SI 2007/3541, schs 5 to 7; SI 2007/1024, sch 3	RPA 1985, s 15(1)(d) Principal area RO SI 2004/294, reg 4(3) and (4)SI 2006/3304, sch 3; SI 2007/1024, sch 3	RPA 1985, s 15(2) Either RO SI 2004/294, reg 4(8)SI 2006/3304, sch 3; SI 2007/1024, sch 3	RPA 1985, s 15(1)(d) Mayoral election RO SI 2004/294, reg 4(5) SI 2006/3305, sch 3; SI 2007/1024, sch 3	RPA 1983, s 36(3), (3AB) and (3AC) Mayoral election RO SI 2004/294, reg 4(5)SI 2006/3305, sch 3; SI 2007/1024, sch 3					



	Greater London Authority (ordinary)	Greater London Authority (vacancy)	Principal areas (E+W) (ordinary)	Principal areas (E+W) (vacancy)	Parishes and communities (E+W) (ordinary)	Parishes and communities (E+W) (vacancy)	Scottish Local Government (ordinary)	Scottish Local Government (vacancy)	Northern Ireland local government (ordinary)	Northern Ireland local government (vacancy)	Elected Mayors
	sch 3										
<b>Police and Crime Commissioner</b>	<b>PCC Order, sch 4 para 1 GLA CRO SI 2004/294, reg 4(2) and (11)(b) SI 2007/3541, schs 5 to 7; SI 2012/1917, sch 4 pt 3</b>	<b>PCC Order, sch 4 para 1 Either RO SI 2004/294, reg 4(8) SI 2007/3541, schs 5 to 7; SI 2012/1917, sch 4 pt 3</b>	<b>PCC Order, sch 4 para 1 Principal area RO SI 2004/294, reg 4(3) and (4) SI 2006/3304, sch 3; SI 2012/1917, sch 4 pt 3</b>	<b>PCC Order, sch 4 para 1 Either RO SI 2004/294, reg 4(8) SI 2006/3304, sch 3; SI 2012/1917, sch 4 pt 3</b>	<b>PCC Order, sch 4 para 1 RPA 1985, s 15(1)(c) Parish/community RO SI 2004/294, reg 4(7) SI 2006/3305, sch 3; SI 2012/1917, sch 4 pt 3</b>	<b>PCC Order, sch 4 para 1 Either RO SI 2004/294, reg 4(8) SI 2006/3305, sch 3; SI 2012/1917, sch 4 pt 3</b>					<b>PCC Order, sch 4 para 1 Mayoral election RO SI 2004/294, reg 4(5) SI 2007/1024, schs 3 and 3A; SI 2012/1917, sch 4 pt 3</b>

## APPENDIX B

### TABLE OF LEGISLATION ON COMBINATION OF POLLS

<b>Election</b>	<b>Whether polls can combine</b>	<b>Hierarchy</b>	<b>Functions of lead returning officer</b>	<b>Combination of polls rules</b>
<b>UK Parliament (England and Wales)</b>	Representation of the People Act 1985, s 15	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	Representation of the People (Combination of Polls) Regulations 2004/294, sch 2
<b>UK Parliament (Scotland)</b>	Representation of the People Act 1985, s 15	Representation of the People (Scotland) Regulations 1986/1111, reg 95	Representation of the People (Scotland) Regulations 1986/1111, reg 96	Representation of the People (Scotland) Regulations 1986/1111, reg 98
<b>UK Parliament (Northern Ireland)</b>	Representation of the People Act 1985, s 15	Does not apply – CEO is returning officer for all elections	Does not apply – CEO is returning officer for all elections	Elections Act 2001, sch 1 pt 1
<b>European Parliament (England and Wales)</b>	Representation of the People Act 1985, s 15	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	European Parliamentary Elections Regulations 2004/293, sch 3 pt 1
<b>European Parliament (Scotland)</b>	Representation of the People Act 1985, s 15	Representation of the People (Scotland) Regulations 1986/1111, reg 95	Representation of the People (Scotland) Regulations 1986/1111, reg 96	European Parliamentary Elections Regulations 2004/293, sch 3 pt 2
<b>European Parliament (Northern Ireland)</b>	Representation of the People Act 1985, s 15	Does not apply – CEO is returning officer for all elections	Does not apply – CEO is returning officer for all elections	European Parliamentary Elections (Northern Ireland) Regulations 2004/1267, sch 6
<b>Northern Ireland Assembly</b>	Representation of the People Act 1985, s 15	Does not apply – CEO is returning officer for all elections	Does not apply – CEO is returning officer for all elections	
<b>Greater London Authority</b>	Representation of the People Act 1985, s 15; Representation of the People Act 1983, s 36.	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	Greater London Authority Elections Rules 2007/3541, schs 5 to 7.

Election	Whether polls can combine	Hierarchy	Functions of lead returning officer	Combination of polls rules
<b>Principal area council elections</b>	Representation of the People Act 1985, s 15; Representation of the People Act 1983, s 36; National Assembly for Wales (Representation of the People) Order 2007/236, art 16	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4; National Assembly for Wales (Representation of the People) Order, sch 4 para 1	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5; National Assembly for Wales (Representation of the People) Order, sch 4 para 2	Local Elections (Principal Areas) (England and Wales) Rules 2006/3304, sch 3; National Assembly for Wales (Representation of the People) Order 2007 SI 2007, sch 4 part 3
<b>Parish and Community council elections</b>	Representation of the People Act 1985, s 15; Representation of the People Act 1983, s 36; National Assembly for Wales (Representation of the People) Order 2007/236, art 16	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4; National Assembly for Wales (Representation of the People) Order, sch 4 para 1	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5; National Assembly for Wales (Representation of the People) Order, sch 4 para 2	Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3304, sch 3; National Assembly for Wales (Representation of the People) Order 2007 SI 2007, sch 4 part 4
<b>Mayoral elections</b>	Representation of the People Act 1985, s 15; Representation of the People Act 1983, s 36 (as applied by Local Authorities (Mayoral Elections) Regulations 2007/1024, reg 3 and sch 2)	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	Local Authorities (Mayoral Elections) Regulations 2007/1024, sch 3
<b>Mayoral elections (polls combined with a PCC election)</b>	Representation of the People Act 1985, s 15; Representation of the People Act 1983, s 36 (as applied by Local Authorities (Mayoral Elections) Regulations 2007/1024, reg 3 and sch 2)	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	Local Authorities (Mayoral Elections) Regulations 2007/1024, schs 3 and 3A

<b>Election</b>	<b>Whether polls can combine</b>	<b>Hierarchy</b>	<b>Functions of lead returning officer</b>	<b>Combination of polls rules</b>
<b>Police and Crime Commissioner elections</b>	Representation of the People Act 1985, s 15 (as applied by Police and Crime Commissioner Elections Order 2012/1917, sch 4 para 1)	Representation of the People (Combination of Polls) Regulations 2004/294, reg 4	Representation of the People (Combination of Polls) Regulations 2004/294, reg 5	Police and Crime Commissioner Elections Order 2012/1917, sch 4 pt 3
<b>Scottish local government elections</b>	Representation of the People Act 1985, s 15; Scottish Parliament Elections Order 2010/2999, art 13	Representation of the People (Scotland) Regulations 1986/1111, reg 95; Scottish Parliament Elections Order 2010/2999, sch 5 para 1	Representation of the People (Scotland) Regulations 1986/1111, reg 96; Scottish Parliament Elections Order 2010/2999, sch 5 para 2	Scottish Local Government Elections Order 2011/399, schs 2 to 4; Scottish Parliament Elections Order 2010/2999, sch 5 pt 3
<b>Northern Ireland local government elections</b>	Representation of the People Act 1985, s 15	Does not apply – CEO is returning officer for all elections	Does not apply – CEO is returning officer for all elections	Elections Act 2001, sch 1 pt 2; Local Elections (Northern Ireland) Order 2013/3156, sch 1
<b>Scottish Parliament elections</b>	Scottish Parliament Elections Order 2010/2999, art 13; <i>Scotland Act 2012, s 2</i>	Scottish Parliament Elections Order 2010/2999, sch 5 para 1	Scottish Parliament Elections Order 2010/2999, sch 5 para 2	Scottish Parliament Elections Order 2010/2999, sch 5 pt 2
<b>Welsh Assembly elections</b>	National Assembly for Wales (Representation of the People) Order 2007/236, art 16	National Assembly for Wales (Representation of the People) Order, sch 4 para 1	National Assembly for Wales (Representation of the People) Order, sch 4 para 2	National Assembly for Wales (Representation of the People) Order, sch 4 pt 2





**Form L2: For use in polling stations at a Parliamentary election taken alone**

Form L2	
<b>Corresponding Number List</b> (to be used in polling stations at a parliamentary election taken alone)	
Constituency:	.....
Date of Poll:	.....
Polling Station:	.....
Sheet No.:	.....

<b>Ballot Paper Number</b>	<b>Elector Number</b>

