

RESEARCH PAPER

ELECTORAL TIMETABLES IN THE UK

The law stated in this research paper may be in parts out of date.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.¹ 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 Our review of polling processes has revealed certain steps that must be taken by returning officers, candidates or electors at particular times in the run up to the poll. Some of these steps must be taken according to the legislation, which both sets out an electoral timetable (legislative timetable), and sets out deadlines not included in the legislative timetable. This research paper reviews electoral timetables: electoral law's regulation of how the electoral contest unfolds in the run up to polling day.
- 1.2 There are many issues surrounding electoral timetables, including:
 - (1) whether electoral law should set out legislative timetables;
 - (2) what steps should be contained in those timetables;
 - (3) how timetables should operate, for example by counting back from polling day or forward from issue of the writ/notice of election;
 - (4) the overall length of timetables;
 - (5) whether deadlines should be aligned across elections;
 - (6) the reason for divergence in the length or deadlines among elections, and whether a standard timetable is feasible and desirable;
 - (7) the effect of timetable construction on the three main stakeholder groups: electors, administrators and candidates and parties; and
 - (8) the need for flexibility to allow for future methods of voting.
- 1.3 This research paper outlines the rules governing the incidence of elections, that is, what laws governs the triggering of an election and when it is to take place. An understanding of the incidence rules is important for a proper consideration of timetables. An outline of incidence rules for all elections can be found at Appendix A.
- 1.4 The various electoral timetables for all elections are set out in Appendix B.

¹ Electoral Law: A Joint Consultation Paper (9 December 2014)

INCIDENCE RULES

- 1.5 Our first task is to place legislative timetables in the context of the law governing when an election is triggered. Local government laws in Scotland, Northern Ireland and England and Wales settle on a local governance structure which determines when elections are scheduled or triggered. Similarly, the laws governing the UK, EU and Scottish Parliaments, and the Northern Ireland and Welsh Assemblies, also set out when ordinary (regular) general, extraordinary (irregular), and by-elections occur. These rules must be understood in order to review the legislative timetables according to which the elections, when triggered, are to be conducted.

Incidence rules table at Appendix A

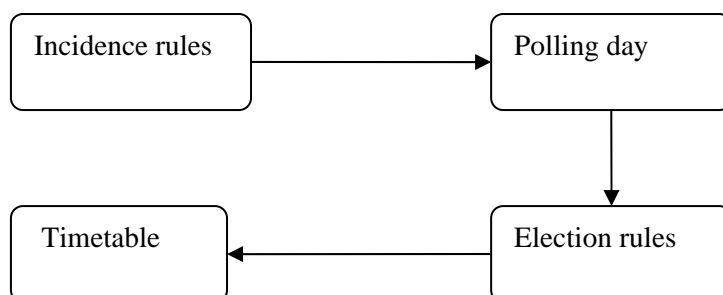
- 1.6 Appendix A sets out the incidence rules for all elections. Elections are divided into three types.
- (1) Ordinary (general) elections, to refer to regular interval elections of the entire body to be elected.
 - (2) Extraordinary (general) elections, to refer to unplanned or irregular elections of the entire body electorate.
 - (3) Casual or by-elections, to refer to irregular elections of individual elected members, rather than the entire body.
- 1.7 These are generic headings and can be infelicitous for certain elections. They fit legislatures better than local government. Local government elections have no concept of extraordinary (general) elections. Elections happen at the appointed interval, or casual vacancies occur. Furthermore, ordinary elections may not be for the entire body in England and Wales, where many councils are elected by thirds every year, except in years when county council elections are planned.

The relationship between incidence rule and timetable

- 1.8 Our interest in incidence rules is not academic. Of chief interest in Appendix A is the final column, which outlines the method of calculation of the legislative timetable. Each election's timetable is anchored by reference to polling day, which is derived from the incidence rules.
- 1.9 Thus, for EU Parliamentary elections, polling day is on the day appointed by order of the Secretary of State, which must be within the four day period set by the EU Council in consultation with the European Parliament. The four days cover a Thursday to a Sunday, to enable elections to take place throughout the EU on the days of the week on which member states normally hold elections. Similarly, a by-election, if one must be held, is to be held on a day appointed by the Secretary of State.²
- 1.10 The European Parliamentary election timetable is set out in rule 1 of the election rules scheduled to the European Parliamentary Elections Regulations 2004.³ All the steps within it are worked by calculating back from the polling day appointed

² European Parliamentary Elections Act 2002, s 5.

by the Secretary of State in incidence rules. This is the model employed by every election type apart from UK Parliamentary elections. It can be put in simple diagrammatical form:



UK Parliamentary electoral timetable was classically also an incidence rule

1.11 The approach in the UK Parliamentary elections is different. This is because, traditionally, that timetable contained the only legal expression of the incidence rule for UK Parliamentary elections. That has now been overtaken by the Fixed Term Parliaments Act 2011. One of the principal theses in this paper is that the UK Parliamentary legislative timetable should be aligned to that for all other elections. That will involve separating incidence rules from the legislative timetable, so that the latter is truly an administrative timetable as other elections’ timetables are. We return to this in greater detail further below.

The current electoral timetables

1.12 Each set of election rules sets out the timetable according to which it must be conducted. However, for historical reasons, the legislative timetables do not exhaustively set out all the deadlines and key timeframes in the administration of an election. At Appendix B to this paper we set out what we think is a comprehensive administrative timetable for all UK elections, by combining legislative timetables (which appear in grey columns) with deadlines contained elsewhere in the legislation (which appear in white columns).

Calculating time

1.13 Every set of election rules follows its timetable with a rule, headed “computation of time”, which governs the running of time. The effect of the classical rule which governs UK Parliamentary elections and is repeated for other elections with few exceptions is essentially that periods of time should exclude non-working days.

Disregarding non-working days

1.14 In calculating a period of time for the purposes of the legislative timetable, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday and any bank holiday, or “a day appointed for public thanksgiving or mourning” is to be disregarded.⁴ These are sometimes referred to by the electoral community as

³ SI 2004 No 293; SI 2004 No 1267.

⁴ Representation of the People Act 1983 sch 1 r 2(1).

“*dies non*”, after the recently omitted words of rule 2 which stated that they were “not to be treated as a day” for the purposes of computing timetables.⁵

- 1.15 For deadlines not contained in election rules – notably the deadline for registering in time to vote on polling day, and the deadline for new or changed postal voting arrangements – separate provision must be made. Accordingly the registration regulations in all three jurisdictions provide for the non-working days mentioned above to be discounted in the calculation of any period of not more than seven days. For longer periods which expire on such a day, the deadline is the next working day.⁶

Bank holidays at UK-wide elections

- 1.16 Bank holidays differ in each UK jurisdiction. UK-wide general elections (for the UK and EU Parliaments) occur in all three jurisdictions, and must be subject to the same timetable. Therefore the rules make clear that any bank holiday in any of the jurisdictions must be disregarded at a general election. If the election is a by-election, only bank holidays in the relevant jurisdiction must be discounted.⁷

EASTER MONDAY AS A “*DIES NON*” IN SCOTLAND

- 1.17 There is an issue with discounted days in Scotland. This is because the classical rule discounts both Good Friday, and bank holidays generally. In England and Wales and Northern Ireland, Easter Monday is a bank holiday and is thus discounted. In Scotland, Good Friday is a bank holiday, and it is Easter Monday which should be expressly discounted. However the UK Parliamentary election rules do not discount that day, nor do the Representation of the People (Scotland) Regulations 2001, which lay down the deadline for late registration for both UK Parliamentary and Scottish local government elections. By contrast, the rules for local government elections in Scotland and Scottish Parliamentary elections both discount Easter Monday from the calculation of periods of time for the purposes of the timetable.⁸

The legislative timetables

- 1.18 The legislative timetable for each election is currently laid out in the first of each election’s rules. For the elections that we cover, therefore, there are 12 timetables for elections, set out in 15 discrete election rules, of the following

⁵ Representation of the People Act 1983 sch 1 r 2, words omitted by the Fixed-term Parliaments Act 2011. This amendment is not reflected in some other election rules, but we expect it to be once they are updated. Little turns on the amendment for our purposes, although it does affect how returning officers run counts. The Count, paras {1.24 to 1.26}.

⁶ Representation of the People (England and Wales) Regulations 2001 SI 2001 No 341 reg 8; Representation of the People (Scotland) Regulations 2001 SI 2001 No 497 reg 8; Representation of the People (Northern Ireland) Regulations 2008 SI 2008 No 1741 reg 8.

⁷ Representation of the People Act 1983 sch 1 r 2(2)(a), but not if the election is one that follows a poll countermanded on account of the death of a candidate or riot or open violence (r 2(2)(i) and (ii)). European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 1 r 2(2) – which also makes provision for bank holidays in Gibraltar to be taken into account, since the territory elects MEPs as part of a combined region with the South West of England. Banking and Financial Dealing Act 1971, sch 1 paras 1, 2 and 3.

⁸ Representation of the People (Scotland) Regulations 2001 SI 2001 No 497 reg 8(3); Financial Dealings Act 1971 sch 1 para 2. Scottish Local Government Elections Order 2011 SSI 2011 No 399, sch 1 r 2(1)(b).

lengths:

- (1) 25 days for UK Parliamentary elections, whose timetable is uniquely set out in primary legislation;⁹
- (2) 25 days for EU Parliamentary elections;¹⁰
- (3) 25 days for Welsh Assembly elections;¹¹
- (4) 25 days for Northern Ireland Assembly elections;¹²
- (5) 25 days for local elections in Northern Ireland;¹³
- (6) 25 days for local government (principal areas) election in England and Wales;¹⁴
- (7) 25 days for parish and community elections in England and Wales;¹⁵
- (8) 25 days for Police and Crime Commissioner elections;¹⁶
- (9) 25 days for Mayoral elections in England and Wales;¹⁷
- (10) 30 days for Greater London Authority elections;¹⁸
- (11) 28 to 35 days for local government elections in Scotland;¹⁹
- (12) 28 to 35 days for elections to the Scottish Parliament.²⁰

1.19 We can immediately observe that while there is no uniform length for all timetables, they are clustered around the 25 day mark. The two species of elections occurring only in Scotland stand out with their 28 to 35 day timetable,

⁹ Representation of the People Act 1983, sch 1 r 1.

¹⁰ European Parliamentary Elections Regulations 2004 SI No 293, sch 1 r 1; European Parliamentary Elections (Northern Ireland) Regulations 2004 SI No 1267, sch 1 r 1.

¹¹ National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236 sch 5 r 1.

¹² Northern Ireland Assembly Elections Order 2001 SI 2001 No 2599, sch 1 (applying with modifications Representation of the People Act 1983, sch 1 r 1).

¹³ Electoral Law Act (Northern Ireland) 1962, sch 5 r 1.

¹⁴ Local Elections (Principal Areas) (England and Wales) Rules 2006 SI 2006 No 3304, sch 1 r 1. These are elections to county, district and unitary councils.

¹⁵ Local Elections (Parishes and Communities (England and Wales) Rules 2006 SI 2006 No 3305, sch 2 r 1.

¹⁶ Police and Crime Commissioners Elections Order 2012 SI 2012 No 1917, sch 3 r 1.

¹⁷ Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 SI 2007 No 1024, sch 1 r 1.

¹⁸ Greater London Authority Election Rules 2007 SI 2007 No 2541, sch 1 r 1 (Constituency Members); Greater London Authority Election Rules 2007 SI 2007 No 2541, sch 2 r 1 (London Members); Greater London Authority Election Rules 2007 SI 2007 No 2541, sch 3 r 1 (Mayoral Election).

¹⁹ Scottish Local Government Elections Order 2011 SSI 2011 No 299, sch 1 r 1.

while GLA elections' timetables are 30 days to allow for the creation of the leaflet which contains the details of candidates for Mayor of London. This is sent out to the electorate by the Greater London Returning Officer (as "London Elects") instead of the free mailing which candidates for UK Parliamentary elections can take advantage of.

- 1.20 Taking account of the provisions which exclude non-working days, the formal timetable from notice to polling day is generally about five weeks for a 25 day timetable, subject to bank holidays.

Deadlines within the legislative timetables

- 1.21 Each election's legislative timetable contains the following stages:

- (1) publication of the notice of election;
- (2) the deadline for delivery of nomination papers ("close of nominations");
- (3) the deadline for withdrawals of candidature;
- (4) the deadline for making objections to nomination;
- (5) publication of the statement of persons nominated; and
- (6) polling day.

Differences in discrete election timetables

- 1.22 The timetable for elections to the UK Parliament also includes a deadline for issue of the writ. For elections which follow the "parliamentary" model of nominations, the deadlines for close of nominations, delivery of withdrawals of candidature, and making of objections to nomination papers fall on the same day, although objections may be made by 5pm, one hour after close of nominations.

- 1.23 For elections which follow the alternative "local government" model of nominations, the election rules set out deadlines for the same events, except that no deadline for making of objections to nominations papers is included in the timetable (since there is no formal objections procedure under this model); the deadline for withdrawal is later than the close of nominations, and there is an additional deadline for publication of notice of the poll. We consider this alternative model, and the reasons for these differences, further below.

Why only these steps?

- 1.24 As is clear from the above, the strong emphasis in the legislative timetables is on the processes from notice of election to nomination of candidates. The statement of persons nominated determines, for UK Parliamentary and certain other elections, the name and other details of candidates that are to appear on ballot papers and the order in which they are to appear. This emphasis is explicable only for historical reasons. It was the emphasis in the first legislative timetable, the UK Parliamentary election timetable in the Ballot Act 1872. While the

²⁰ Scottish Parliamentary Elections Order 2010 SI 2010 No 2999, sch 2 r 1.

deadlines have changed, the nature of those deadlines is preserved in the modern UK Parliamentary election timetable, and in other timetables which have used it as a template.

- 1.25 Two key deadlines do not appear in the legislative timetable: the deadline for registration as a voter to be effective a forthcoming poll, and the deadline for new or altered absent voting arrangements. The classical deadlines in the legislative timetable were settled when registration was by canvass well in advance of scheduled polls. Postal voting was not introduced until 1918, and only became prevalent after postal voting on demand was introduced in 2000.

The unique nature of the UK Parliamentary timetable

- 1.26 The overall length of electoral timetables is an issue. UK Parliamentary elections were run under a 17 day timetable. The Electoral Registration and Administration Act 2013 extended this to 25 days, bringing it closer to most other elections. However, elections to the UK Parliament still run on a different timetable. Table 1 sets out the UK Parliamentary general and by-election timetables.

THE UK PARLIAMENTARY GENERAL ELECTION TIMETABLE

- 1.27 As Table 1 sets out, the General election timetable is calculated by reference to the dissolution of Parliament, which triggers the issue of the writ.²¹ Deadlines within the timetable are calculated either by reference to:

- (1) the date of dissolution of Parliament according to the Fixed-term Parliaments Act 2011 (in the case of polling day and the close of nominations); or
- (2) the date of receipt of the writ of election by the returning officer (in the case of notice of election).

- 1.28 The dates of both issue and receipt of the writ of election are themselves variable, since they depend on how soon after dissolution the Lord Chancellor (or the Secretary of State in relation to Northern Ireland) issues the writ, and when it is delivered to the returning officer (by hand or post). In table 1, we have assumed issue of the writ on the day of dissolution (day 0), and receipt the next day (day 1). Notice of election must be published by day 3, nominations close on day 6, the statement of persons standing nominated must be published no later than day 7, and polling takes place on day 25.

The orientation of the timetable by reference to dissolution and writ of election

- 1.29 Before the Fixed-term Parliaments Act 2011 (“the 2011 Act”), rule 1 of the UK Parliamentary election rules not only provided the administrative timetable for the election, but also determined when polling day was to be. The dissolution of Parliament is what, in law, triggered a general election. It determined the date of the poll, and started the countdown to polling day. The timetable is structured accordingly.

- 1.30 By contrast, as Appendix A shows, every other election’s timetable runs by

²¹ Fixed-term Parliaments Act 2011, s 3(1) as amended by the Electoral Registration and Administration Act 2013, s 14(1).

reference to a polling day determined according to other rules. These election timetables run back from polling day (which is day 0) to notice of election (which in most cases is day 25 before polling day). Under the new UK Parliamentary election timetable notice of election is published 22 days before polling day and dissolution occurs 25 days before. Compared to those timetables, the UK Parliamentary election timetable is a 22 day, not a 25 day, timetable.

Date of general elections now governed by the 2011 Act

1.31 The 2011 Act comprehensively determines when polling day is to be at general elections. Polling day is:

- (1) 7 May 2015, or the first Thursday in May at five yearly intervals thereafter;
- (2) determined by order of the Prime Minister within a period ending two months after the scheduled general election date; or
- (3) appointed by Royal proclamation on the recommendation of the Prime Minister.

1.32 Parliament is dissolved at the beginning of the 25th day before polling day thus determined.²²

1.33 The timetable in rule 1 of the Parliamentary Elections Rules thus suffers from a critical flaw. It used to serve a dual role, as both an administrative timetable and a way of determining when, in law, polling day must take place by reference to the Royal proclamation summoning a new Parliament.²³ It is now in truth only an administrative timetable, since the 2011 Act now “triggers” General elections and determines polling day. Rule 1 of the election rules now simply refers to the day determined under section 1 of the 2011 Act.

1.34 If the Parliamentary timetable were reoriented to be made consistent with the timetable governing other elections, it would be organised by reference to polling day, with notice of election due 25 days earlier (for convenience we call this “day 25”). This would have the effect of aligning both the length of the parliamentary election timetable, and the way it is constructed, with the position at other elections. If the proclamation and writ of election are to be retained in the timetable, they should occur before Notice of election – on days 28 and 27 respectively. This would have no administrative impact on the other steps in the timetable.

UK PARLIAMENTARY BY-ELECTIONS

1.35 The position is materially different at UK Parliamentary by-elections. The 2011 Act makes no provision governing Parliamentary by-elections. As table 1 shows, the timetable in rule 1 of the Parliamentary election rules continues to determine when polling day is. The warrant for the writ of by-election, and the issue of the

²² Fixed-term Parliaments Act 2011, ss 1(2), (3), (5), 2(7), and 3(1).

writ, start the timetable. The timetable is then constructed so as to give returning officers a range of potential polling days to choose from, the idea being that they would choose a Thursday. Having polling day systematically determined by reference to a prior date risks the election taking place on a day other than a Thursday.

The incidence rule

- 1.36 The changes made to the incidence of general elections under the 2011 Act indicate a policy for incidence rules to be stipulated according to a legal process, since the Act greatly restricts the Prime Minister's discretion to choose the date of a general election. A discretion remains in relation to by-elections; the Chief Whip of the party to which the vacating MP belonged determines when the warrant for the writ is issued, and thus the range of days when the by-election will take place.
- 1.37 Reasoning by analogy, the policy behind the 2011 Act could also be applied to by-elections, by providing in statute when the election timetable will start to run after the occurrence of a vacancy in the office of MP. However, it is our view that a change of this sort goes to the constitutive rules of Parliament, and is thus outside the scope of our review.

The timetable

- 1.38 The Parliamentary by-election deadlines are somewhat opaquely expressed. Assuming, as we do in Table 1, that the writ is received the day after its warrant and issue:
- (1) close of nominations is to occur between the fifth and seventh day after the warrant of by-election. Strictly the rule expresses that close of nominations must be between:
 - (a) the third day after notice of election, itself published no later than two days after receipt of the writ (in total, day five); and
 - (b) the seventh day after receipt of the writ.
 - (2) Polling is on a day, fixed by the returning officer, between:
 - (a) the 17th day after the close of nominations; and
 - (b) the 19th day after the close of nominations.

- 1.39 When receiving a writ of election, a returning officer is thus able to consider the range of days on which close of nominations can occur, and consequent on that range, a range of five working days on which polling day can occur. The idea, unexpressed in law, is that a Thursday will be chosen, and the timetable deadlines will be worked back from that day. Based on the assumption of next day receipt of the writ, the UK Parliamentary by-election timetable is thus 23 to 27

²³ "The eleventh day after the last day for delivery of nomination papers", itself the sixth day after the date of proclamation summoning the new Parliament – making 17, the length of the timetable before the change in the law under the Electoral Registration and Administration Act 2013.

days long.

- 1.40 Our analysis of the UK Parliamentary general election timetable is that, following the 2011 Act, its orientation can be aligned with that of other timetables. That Act determines polling day, from which every other deadline can be derived. At first sight, the by-election timetable would resist such analysis, since polling day is determined by reference to the warrant of by-election and subsequent receipt of the writ. However, as we have shown, the intent behind the timetable is, in fact, to allow for polling day to be on a range of days, to enable a Thursday to be selected as polling day.
- 1.41 As with the general election timetable, re-orienting the by-election timetable in this way does not materially affect the election. The regulation of candidates' expenses starts, for by-elections, at the earliest on the occurrence of the vacancy, and that would be unaffected by re-orienting the by-election timetable. The ability to choose when to issue the warrant for the writ of by-election, which arguably can be used for perceived political advantage by determining how quickly after a vacancy arises an election can occur, would be equally unaffected.²⁴
- 1.42 By-elections tend to see many candidates standing, as parties can focus on a single constituency. This increases the burden on administrators when processing nomination papers and printing ballot papers. Their unpredictability means that electors may be unaware of the need to register or indicate absent voting preferences in advance.²⁵ These aspects could point in favour of a longer rather than shorter timetable than for general elections. On the other hand, there is a public interest in filling a vacancy in the legislature, and ensuring a constituency again has representation, expeditiously.

²⁴ Based on the previous shorter timetable before amendments made by the Electoral Registration and Administration Act 2013, a 13 day timetable was used in the South Shields by election in May 2013.

²⁵ O Gay, *Electoral Timetables in the United Kingdom* (2003), para 2.38.

Table here

1.43 We have noted that every other election timetable counts back from polling day, fixed according to some incidence rule extraneous to the election rules. Appendix A sets out the incidence rules for all elections and Appendix B sets out the electoral timetables for all elections. There are four principal ways in which these timetables differ.

- (1) First, certain timetables emulate the structure of the local government election timetable in England and Wales, which provides for a later deadline for withdrawal from nominations. Traditionally, this is to allow candidates to be nominated in more than one ward before deciding which ward finally to stand in.
- (2) Secondly, the timetables for elections held only in Northern Ireland have a longer period of time between notice of election and the close of nominations.
- (3) Thirdly, the timetable for elections occurring only in Scotland is 28 to 35 days in length.
- (4) Fourthly, the timetable for the Greater London Authority elections is 30 days in length.

1.44 We will consider each of these differences in turn.

The local government model elections in England and Wales

1.45 Traditionally, nomination at local government elections is possible in more than one ward, with candidates able to review the statement of person standing nominated, and to select which ward they wish finally to stand in. They do so by giving notice of withdrawal to the returning officer. We describe the law on withdrawals at these and elections which have a similar rule – those which use the “local government model” for nominations in our research paper on Nominations.²⁶

1.46 At elections using this nominations model, timetables include a deadline for notice of withdrawal of candidature which is later than both the close of nominations and the latest date for publishing the statement of persons nominated. Instead, the later “notice of poll” sets out the final list of candidates whose names and details are to appear on ballot papers. While a notice of poll must be published at “parliamentary model” elections too, it is specified in the legislative timetable for local government model elections. It has been suggested that a similar statement could be published for local elections after the close of nominations, avoiding the confusion between the terms “notice of election” and “notice of poll”.²⁷

1.47 Another difference at local government model elections is that nominations close, and subsequent deadlines fall, at midday, not 4 pm as they do for the elections that take the parliamentary election approach.

²⁶ Notice of election to nominations research paper available online at <http://lawcommission.justice.gov.uk/areas/electoral-law.htm>. xxx footnotes

²⁷ O Gay, *Electoral Timetables in the United Kingdom* (2003), para 1.27.

1.48 The “local government model” elections in this context are:

- (1) local government elections in England and Wales for both
 - (a) principal authorities, and
 - (b) parish and community councils;
- (2) Police and Crime Commissioners elections;
- (3) Greater London Authority elections;
- (4) Mayoral elections in England and Wales; and
- (5) National Assembly for Wales elections.

1.49 The UK Government’s policy is to remove this difference. For European Parliamentary elections, postal votes are to be issued by the returning officer as soon as is practicable.²⁸ The same position will apply to other elections once legislation is in place.²⁹ At coinciding elections, if the process of issue and receipt of postal votes is combined, postal votes cannot be sent out until the candidates are finally determined for local government elections, allowing ballot papers to be printed. For local elections this is the 16th day before the poll, at the earliest; whereas for parliamentary model elections it is day 18 at the latest. The Government’s primary aim is to allow postal votes to be issued to voters as soon as possible after candidacies are finally settled, even at combined elections. Moreover, the different models were difficult to justify in principle.³⁰

The deadline for nominations in elections in Northern Ireland

1.50 There is a substantially different interval between Notice of election and the close of nominations in local elections and Northern Ireland Assembly elections in Northern Ireland. While both of these require notice of election to be given 25 days before polling day, nominations close at 1 pm on the 16th day before polling day. All other elections running a 25 day timetable require nominations to close on the 19th day before the poll.

1.51 It is not clear what the rationale is for the longer period between notice and nominations. It appears to be purely historical

²⁸ European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 2 para 47.

²⁹ European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 2 para 47; Representation of the People (England and Wales) (Description of Electoral Registers and Amendment) Regulations 2013 SI 2013 No 3198, reg 29; Representation of the People (Scotland) (Description of Electoral Registers and Amendment) Regulations 2013 SI 2013 No 3206, reg 29.

³⁰ O Gay, *Electoral Timetables in the United Kingdom* (2003), paras 2.31 and 4.8.

The 35 to 28 day timetable in Scotland

- 1.52 Both the Scottish Parliamentary and Scottish local government election timetables are between 35 and 28 days in length. Assuming the shortest possible timetable of 28 days, nominations close at 4pm on day 23, or five days after notice of election. The last day for the statement of persons standing nominated is day 22 for Scottish Parliamentary elections and “as soon as possible” after close of nominations for Scottish local government elections. By contrast, 25 day timetable elections provide for close of nominations on day 19, or six days after notice of elections. If assimilated to a 25 day timetable, candidates would gain from an extra working day in which to deliver their nomination paper. Administrators would presumably be adversely affected by bringing the close of nominations closer to polling day by almost a week. However there is no evidence that Scottish electoral administrators are put under greater strain when running UK or EU Parliamentary elections..

The 30 day timetable in Greater London Authority elections

- 1.53 Finally, there is a 30 day timetable for Greater London Authority elections. The departure from the emergent 25 day standard was justified by reference to the need to prepare and publish a booklet containing information about candidates for Mayor of London, specifically their “election addresses”, to be sent by the Greater London Returning Officer to all registered electors.³¹ The need to prepare this booklet has added five days to the timetable. Notice of election must be published on day 30 before polling day, and nominations close a standard six working days later, on day 24 (at noon).

THE BOOKLET RATIONALE FOR EXTRA TIMETABLE LENGTH

- 1.54 The following remarks can be made related to this rationale for the 30 day timetable.
- (1) Mayoral elections in England and Wales – where a booklet must also be produced – are nevertheless run on a standard 25 day timetable.³²
 - (2) The booklet must be published only at ordinary elections; accordingly a casual or by-election, for the Mayor of London or for the London Assembly, involves no production of the booklet – yet such elections are still run according to a 30 day timetable despite the absence of the rationale for having such a timetable.³³

³¹ Greater London Authority Act 1999 s 17A; Greater London Authority Elections (Election Addresses) Order 2003 SI 2003 No 1907.

³² Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 SI 2007 No 1024, reg 6 and sch 4. A material difference in schedule 4 is that the returning officer is not obliged to use the universal postal provider, and may decide the time and means of delivering the booklet.

³³ The Greater London Authority Elections (Election Addresses) Order 2003 SI 2003 No 1907, art 2 (definition of “election”).

- (3) PCC elections, which instead of physical booklets require candidate “addresses” to be published online by the police area returning officer, similarly do not extend the timetable.³⁴
- 1.55 It seems arguable, therefore, that the five days added to the GLA election timetable is disproportionate to the need to publish and post an election booklet. On the other hand, Greater London is the most populated conurbation in the UK and publishing a booklet to every elector is a substantial undertaking. Large numbers of electors are also expected to vote by post, which can place burdens on electoral administrators as well as postal service providers. Furthermore, the booklet may not be the only rationale for the longer timetables. GLA elections may be viewed to be more complicated to run due to the use of both the additional member system (itself a mixture of two voting systems, involving two ballot papers) and the supplementary vote.³⁵

USE OF LOCAL GOVERNMENT MODEL AND LOSS OF EXTRA DAYS

- 1.56 There are other ways of extricating more time for publication of the booklet, however. Because GLA elections employ the local government nomination model, candidates are not finally determined until three days after close of nominations, noon on day 21 before the poll, when the deadline for notice of withdrawals passes. Only after that date can the GLRO begin the process of producing the booklet. Under a parliamentary model timetable above, nominations are closed and candidates finally settled on day 19, so that only two extra working days for producing the booklet are created by the addition of five days to the GLA timetable.

Other key deadlines not currently in legislative timetables

- 1.57 We have so far focussed on the steps within the existing legislative timetables. Yet there are other steps within the true administrative timetable, ranging from the registration of voters and administration of absent voters to the appointment of election, polling and counting agents.

Last day to apply to be entered on the electoral register

- 1.58 The last date for applications to be entered on the electoral register in time to vote for an election is an important deadline. However, it does not feature in the statutory timetables which we mentioned at paragraph 1.5 above. Our initial view is that this deadline should be set out in the statutory election timetable. Confusion has recently been exposed as to what the deadline is, which we presently turn to.

³⁴ Police and Crime Commissioner Elections Order 2012 SI No 1917, art 52 and sch 8

³⁵ O Gay, *Electoral Timetables in the United Kingdom* (2003), para 4.23.

CONSTRUCTING THE DEADLINE FOR ELECTORAL REGISTRATION

- 1.59 A complicated exercise must be undertaken to derive the deadline for registration effective for a particular election. It involves piecing together provisions of the 1983 Act and the regulations governing registration.³⁶

The 1983 Act

- 1.60 Section 13A(1) of the 1983 Act provides that if a registration officer “determines” that an application to be registered should be granted, they must issue in the prescribed manner a notice of alteration of the register. “Determines” is to be interpreted in accordance with regulations.³⁷
- 1.61 Section 13B(1) of the 1983 Act states that an alteration to the register which is to take effect “after the fifth day before the date of the poll” for an election does not have effect for the purposes of that election.
- 1.62 Section 13B governs when applications to be registered are effective for an election. Subsection (2) lays down the conditions for the issuing, in accordance with subsection (3), of a notice of alteration, which must be issued in the prescribed manner, on the appropriate publication date, and “shall take effect as from the beginning of that day”.
- 1.63 The conditions are key, and they are in subsection (2). The subsection makes references to previous provisions by section and subsection. Since that makes it hard to understand, we have inserted substantive provisions into subsection (2), and paraphrased. The subsection says as follows.

(2) Subsection (3) applies where –

- (a) At any time before the “appropriate publication date”, a determination has been made under s13A(1)(a) to (d), including a determination by the registration officer to grant an application to be entered on the register.
- (b) In consequence of the above an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant area; and
- (c) No alteration made in consequence of the determination –
 - (i) has already taken effect, or
 - (ii) is due to take effect

³⁶ Representation of the People (England and Wales) Regulations 2001 SI 2001 No 341; Representation of the People (Scotland) Regulations 2001 SI 2001 No 497; Representation of the People (Northern Ireland) Regulations 2008 SI 2008 No 1741.

³⁷ Representation of the People Act 1983 s13A(6).

on or before the fifth day before the date of the poll under section 13A(2), which provides for notices of alteration to be issued on the first day of the month which follows the time when the registration determination is made, or (if that day is less than 14 days hence), the first day of the following month.³⁸

- 1.64 Where the above conditions are met, section 13B(3) provides that the notice of alteration must be issued on the appropriate publication date, and takes effect from the beginning of that day.
- 1.65 Section 13B(5) adds that “the appropriate publication date”, in relation to a registration officer and an election to which this section applies, means either the sixth or the fifth day before the date of the poll, as the registration officer may determine.
- 1.66 This discretion leads potential uncertainty regarding to the deadline by which registration applications must be received to be effective for a pending election. In practice the assumption is that registration officers decide to exercise the discretion to give electors more time – so that the appropriate publication date is the fifth day before polling day. By virtue of s 13B(1), if a notice of alteration takes effect “after the fifth day before the date of the poll”, it has no effect for the purposes of the election.
- 1.67 On the assumption that the appropriate publication date is day five before the poll, the notice of alteration thus takes effect “as from the beginning of” day five. One of the conditions in section 13B(2) which must be met is that “at any time before [day five]” the registration officer has determined that an application for registration must be granted. In order for the registration to take effect, therefore, there must be a determination no later than day six. Determinations are defined by regulations, as the 1983 Act envisages.

The registration regulations

- 1.68 The Representation of the People Regulations 2001 govern individual applications to join the register, and their determination. The procedure for determinations is governed by regulation 29, which requires applications to be entered on a list of applications for registration. Regulation 29(4) states that the registration officer may allow an application without a hearing provided that no objection is made within the period of five days beginning with the day following the entry of the application in the list of applications.

³⁸ What this means is that individual applications to be entered on the register will routinely result in a notice of alteration on the first day of the month falling within the period of 14 to 45 days from the date of determination. A determination made on 2 January leads to publication on the first working day in February. A successful application made on 17 January leads to publication on the first working day in March. Where section 13B(2) is engaged, the notice of alteration takes effect more swiftly – effectively amounting to a “later registration” provision.

How the registration applications deadline is derived

- 1.69 The registration applications deadline is composed of the period between election day and the last day for publishing a notice of alteration, together with the period between the determination to grant an application, and when it is made. The orthodox approach has been that the deadline is made up of:
- (1) a minimum five day notice of alteration period; plus
 - (2) a minimum five day determination period; plus
 - (3) one clear day between the entry in the list of applications and the start of the determination period.
- 1.70 That amounts to 11 days. However that only works if one reads the condition in section 13B(2) of the 1983 Act as being that “at any time on or before [day five]” the registration officer has made a determination (our emphasis). If the words of the statute are interpreted strictly, then an extra clear day must be allowed in the calculation between the end of the determination period and the publication of the notice of alteration. That brings the true deadline to 12 days.
- 1.71 That this is the right interpretation of the statute is strengthened by the words of section 13(3C), concerning the deadline for notices of alteration to correct a clerical error (9pm on the day of the poll). There is again a condition – but it is that “at any time on or after the appropriate publication date” the registration officer determines that a clerical error has been made. It is clear that the statute provides a complete scheme for late alterations to the register – one applying to all “determinations”, provided they are made before the fifth day before the poll, and another applying only to clerical errors, where a determination is made on or after the fifth day before the poll.

Last day to apply to become an absent voter

- 1.72 Another set of deadlines that are voter-facing are those to become a postal or proxy voter in time for a forthcoming election. Here the deadlines are 5pm 11 days before polling day (for postal voting applications) and 5pm 6 days before the election (for non-emergency proxy voters).
- 1.73 As with registration, absent voting deadlines are contained either in the registration regulations, or in discrete parts of election-specific measures. The reason for this is historical. Election rules’ content was settled in 1872; at that time registration was done by annual canvass. Only later did “rolling” registration (whereby individuals could apply to be registered in addition to the periodic return of canvass forms) and individual electoral registration (where such applications are the only way to register) come about. Similarly, postal voting, and its rise in importance since being available on demand in Great Britain, is also a recent development.

First issue of postal votes

- 1.74 We discussed, against the background of the rationalisation of the local government and parliamentary model, the question of when postal votes may first be issued. This is an important deadline from the point of view of electoral administrators. However we do not think it necessary to include it in the legislative timetables. The deadlines for new registration and absent voting applications are of relevance to all groups concerned by the election, including voters. We can expect administrators to be familiar with their legal obligation as to when to send postal voting packs. What should be clear from the timetable is when the nominations process can be regarded as closed and polling proper starts – and that is marked by publication of the polling notice.

Deadline for registration of political parties

- 1.75 We have considered whether the registration of political parties should be a step in the statutory timetable. For most elections, party registration is a feature of the relationship between parties and candidates, and only affects whether a candidate can use a certain description or emblem on their ballot paper. However, in party list elections, where the party is being nominated (currently European Parliamentary elections in Great Britain, Scottish Parliamentary elections, Welsh Assembly elections and elections to the Greater London Assembly), whether the party is registered or not will determine whether it appears on the ballot paper. We noted in our research paper on nominations that the deadline for party nomination varies, we consider unintentionally, between different elections, but is generally two days before the close of nominations.

Campaign related deadlines before polling day

- 1.76 Other deadlines not currently set out in the statutory election timetable include:
- (1) the date when candidates become subject to the regulation of campaign expenses;
 - (2) the deadline for the appointment of the election agent; and
 - (3) the deadline for the appointment of polling and counting agents.
- 1.77 Deadlines (1) and (2) are mainly relevant to candidates and parties, rather than electoral administration. They may be part of a “greater” timetable set out in guidance, but we do not consider that they should be set out in the legislative timetables governing the administration of the poll itself, for the following reasons.

CAMPAIGN EXPENSE REGULATION

- 1.78 The date when campaign expense regulation starts, which we mentioned above when discussing the effect of extending the UK Parliamentary timetable, is sometimes referred to as the “adoption of the candidate”. This is because a person may become a candidate for the purpose of expense regulation when they are proclaimed candidates as such by themselves or others. Since that depends on external factors, this is ill suited for inclusion in a legislative timetable, and could be any time between the dissolution of Parliament or the relevant Assembly (for Parliamentary elections, elections to the Northern Ireland Assembly and National Assembly for Wales)³⁹ or notice of election (for all other elections)⁴⁰ and nomination. In any event, it is not a matter for administration of the poll.

APPOINTMENT OF ELECTION AGENT

- 1.79 The election agent must be appointed by the close of nominations for elections to the Scottish Parliament.⁴¹ For all other elections the appointment must occur by the deadline for notices of withdrawal.⁴² The different provisions do not create a difference in practice, as for elections to the Scottish Parliament the close of nominations is at the same time as the deadline for notices of withdrawal.

³⁹ Political Parties, Elections and Referendums Act 2000, s 135; Representation of the People Act 1983, s 118A; Northern Ireland Assembly Order 2001 SI 2001 No 2599, sch 1; National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 84(2).

⁴⁰ Political Parties, Elections and Referendums Act 2000, s 135; Representation of the People Act 1983, ss 118A, 203(1) and 204(1); Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 82(1); European Parliamentary Elections Regulations 2004 SI 2004 No 293, reg 31(2); European Parliamentary Elections (Northern Ireland) Regulations 2004 SI 2004 No 1267, reg 32(2); Electoral Law (Northern Ireland) Act 1962, s 130(3A); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, art 3.

⁴¹ Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, art 32(1);.

⁴² Representation of the People Act 1983, s 67(1); Northern Ireland Assembly Elections Order 2001 SI 2001 No 2599, sch 1; National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, art 37(1); European Parliamentary Elections Regulations 2004 SI 2004 No 293, regs 33(2) and 38(1); European Parliamentary Elections (Northern Ireland) Regulations 2004 SI 2004 No 1267, reg 34(1); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, art 26(1); Electoral Law (Northern Ireland) Act 1962, s 34(1).

APPOINTMENT OF POLLING AND COUNTING AGENTS

- 1.80 Section 14 of the Electoral Registration and Administration Act 2013, once in force, will amend the Parliamentary Elections Rules and the Northern Ireland Assembly Elections Order 2001 concerning the appointment of polling and counting agents.⁴³ The new deadline for UK Parliamentary elections will be five days before the date of the poll. As a result, the same deadline will apply to all elections,⁴⁴ apart from elections to the European Parliament held in Northern Ireland and elections to the National Assembly for Wales, which still retain a deadline of 2 days before the date of the poll.⁴⁵
- 1.81 There is no obvious justification for retaining a different deadline only for those two elections. Given that the majority of elections apply a five day deadline, the rules for Assembly elections in Wales and elections to the European Parliament held in Northern Ireland should be changed in line with this. Requiring notification well in advance of polling day will help administrators to arrange security at the count and plan for the number of people attending the count.
- 1.82 Nevertheless, we do not think this deadline needs to be reflected in the legislative timetables governing elections – although it is relevant to electoral administration, since it pertains to the issue of who may attend the poll and count for the purpose of ensuring the transparent neutrality of electoral administration.

Deadlines after polling day

- 1.83 It might also be argued that the scope of the statutory timetable should be extended to cover events after polling day, such as the deadline for return of candidates' deposits where they were not forfeited, and the deadline for return of election expenses. In response to our Scoping Consultation Paper, Professor Ron Johnston suggested that any reformed timetable should include dates concerning the regulation of candidate expenditure.
- 1.84 The legislative timetable currently covers (some of) the core administrative steps from notice to polling day. Post-election events concerning candidates could be included in a separate timetable attached to regulations on candidates and the campaign. The legislative timetable should continue to focus on electoral administrative processes.

⁴³ Representation of the People Act 1983, sch 1 r 30(3) as amended by the Electoral Registration and Administration Act 2013, s 14(4); Northern Ireland Assembly Elections Order 2001 SI 2001 No 2599, sch 1 as amended by the Electoral Registration and Administration Act 2013, s 14(6).

⁴⁴ European Parliamentary Elections Regulations 2004 SI 2004 No 293, sch 1 r 33(4); Scottish Parliament (Elections etc.) Order 2010 SI 2010 No 2999, sch 2 r 39(4); Greater London Authority Election Rules 2007 SI 2007 No 3541, sch 1 r 30(8), sch 2 r 31(8), sch 3 r 30(8); Local Elections (Principal Areas) (England and Wales) Rules 2006 SI 2006 No 3304, sch 2 r 27(5); Local Elections (Parishes and Communities) (England and Wales) Rules 2006 SI 2006 No 3305, sch 2 r 27(5); Scottish Local Government Elections Order 2011, sch 1 r 26(3); Electoral Law (Northern Ireland) Act 1962, sch 5 r 27(2); Local Authorities (Elected Mayors) Regulations 2007 SI 2007 No 1024, sch 1 r 29(7); Police and Crime Commissioner Elections Order 2012 SI 2012 No 1917, sch 3 r 31(7).

⁴⁵ European Parliamentary Elections (Northern Ireland) Regulations 2004 SI 2004 No 1267, sch 1 r 31(4); National Assembly for Wales (Representation of the People) Order 2007 SI 2007 No 236, sch 5 r 38(5).

Designing a standard timetable

- 1.85 Voters, administrators, and campaigners would be better able to manage deadlines if they were the same for all elections. They would benefit to a greater extent if, at combined elections, the same deadlines would occur on the same day. It would enable better planning, and efficiencies in meeting key “choke points” in administering elections.
- 1.86 Voters, administrators and campaigners will be involved in elections that are UK wide as well as those that relate only to a particular jurisdiction (or Greater London). It is inconceivable that a single, UK wide election can have different timetables in different jurisdictions or areas. Therefore any standard timetable must be UK-wide. We present the options here.

Table 3: overall timetable lengths

- 1.87 In our discussions above, we noted that legislative timetables range from a maximum of 35 days to 25 days in length from notice to polling day. Table 3 below rounds up the general picture for all elections.

Length of timetable	35 to 28 days	30 days	25 days subject to caveats	25 days
Election	Scottish Parliamentary elections Scottish local government elections	Greater London Authority elections	UK Parliamentary elections	All other elections in the UK

- 1.88 That general picture must be adapted to account for what is in fact a shorter UK Parliamentary general election timetable, counting from notice, and the variable nature of the by-election timetable. Furthermore, as we noted earlier, the justification for the 30 day GLA timetable is the need to produce the booklet containing Mayoral candidates’ election addresses, however, only two extra working days are gained by the 30 day timetable as compared to the picture for a 25 day timetable using the parliamentary model for nominations. Finally, the Scottish Parliamentary and local government election timetable can be as short as 28 days.
- 1.89 It may be that there is a particular optimum length for electoral timetables. Unlike the position, pre 2013, for UK Parliamentary elections (run to a 17 day timetable), a 25 day timetable does not seem to present difficulties to run in practice.

1.90 As a matter of electoral administration generally (and perhaps crudely) speaking, the greater the length of the timetable, the better. An option which does not reduce the (effective) length of the longer timetables, but marginally increases the length of others, would thus be the least harmful option. We had considered a 30 day timetable to be the chief contender for this option. However, our analysis of the two categories of longer timetables (the GLA election timetable and Scotland-only timetables) shows that a 28 day timetable is able, almost perfectly, to preserve the advantages of these longer timetables, while extending 25 day timetables only minimally.

- (1) First, a 28 day timetable for GLA elections that discards the “local government model” approach means the GLRO would, in fact, have the same amount of time to produce the booklet after nominations have finally been settled on day 22 before the poll.
- (2) Secondly, a fixed 28 day timetable for elections for the Scottish Parliament and local government, with a six day gap to close of nominations (rather than the current five day gap), would minimally affect the overall timetables in Scotland-only elections. Nominations would close on day 22 before the poll as opposed to day 23.
- (3) Finally, every other election’s legislative timetable would be affected by moving the deadline for nominations by three days, from day 19 to day 22.

Alignment of deadlines between elections

1.91 Whichever option is preferred, it does not suffice to require the same overall length of the timetable if the steps within it are not also harmonised. Harmonisation or standardisation of timetables would plainly ease the administrative burden associated with combined polls, since both polls would share the same timetable. Furthermore, administrators and campaigners would only need to be aware of one set of deadlines, rather than many different ones associated with the different elections they might be involved in. Having a single standard timetable would also make it easier for any new elections to be combined with the current ones.

1.92 The chief obstacles to aligned deadlines, other than different length timetables, are twofold. The first, the local government nominations model, is being scaled back from government. The second, the different deadlines for nominations in Northern Ireland, we have mentioned appear to be purely historical. Subject to clarification with the Northern Ireland Office as to whether a Northern Ireland specific policy subsists there, which we find doubtful, we would assimilate these deadlines to those at other 25 day timetable elections.⁴⁶

⁴⁶ NI-wide policies tend to find their way into UK-wide elections’ rules, to the UK and EU Parliament. These different deadlines occur in NI-only elections.

- 1.93 Deadlines not contained in discrete legislative timetables pose no problems, because they (the registration and absent voting deadlines) are the same in each jurisdiction. Thus the deadlines for registration and postal voting applications in Northern Ireland are, respectively, 11 and 14 days before the poll consistently at all elections in Northern Ireland. Similarly, the registration and postal voting deadlines are the same in Great Britain.

The notion of the writ at UK Parliamentary elections

- 1.94 The writ issued for Parliamentary elections is an antiquated form of words that is sent by post to all Parliamentary constituencies and informs a returning officer that they need to commence the election timetable. It is arguable that the writ no longer serves a useful purpose in the modern election climate. By the time a writ is sent, returning officers will probably already be aware (through the media) that an election is imminent, and yet will have to wait until they receive the physical document before they can publish notice of election and begin the other preparations for the election.
- 1.95 With the advent of modern methods of communication, informing returning officers that an election has been called no longer needs to be done through the transmission of a hard copy, identifiably official document. Instead, a notice, suitably authorised, might suffice. However, the writ, and its archaic wording, may also be viewed as one of the traditions of the Parliamentary electoral process.

Objections and withdrawal

- 1.96 The deadline for objecting to nomination papers has long been part of the timetable; however it very quickly became clear that it had limited relevance. Firstly, it was not necessary, in order for a returning officer to reject a nomination paper, that it had been objected to. Secondly, in practice this deadline simply expresses that rival candidates must object to nomination papers no later than one hour after the close of nominations.
- 1.97 Similarly, the deadline for notice of withdrawal of candidacy has become less relevant. At parliamentary model elections that deadline is the same as the close of nominations. At local government model elections it used to be particularly important since it allowed for a later withdrawal, allowing candidates at multiple wards finally to select which they wanted finally to stand for. Since the UK Government has signalled its intent to align local government election timetables with others, the withdrawal deadline is equally redundant at local government model election timetables.