

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Seventh Delegated Legislation Committee

DRAFT NATIONAL ASSEMBLY FOR WALES
(REPRESENTATION OF THE PEOPLE)
(AMENDMENT) ORDER 2016

DRAFT NATIONAL ASSEMBLY FOR WALES
(REPRESENTATION OF THE PEOPLE)
(AMENDMENT) (NO. 2) ORDER 2016

DRAFT POLICE AND CRIME COMMISSIONER
ELECTIONS (AMENDMENT) ORDER 2016

Tuesday 1 March 2016

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Saturday 5 March 2016

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: MR GEORGE HOWARTH

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|-----------------------------------------------------|--------------------------------------------------------------------|
| † Carmichael, Neil (<i>Stroud</i>) (Con) | † Hoare, Simon (<i>North Dorset</i>) (Con) |
| † Cleverly, James (<i>Braintree</i>) (Con) | † Johnson, Gareth (<i>Dartford</i>) (Con) |
| Clwyd, Ann (<i>Cynon Valley</i>) (Lab) | † McMahon, Jim (<i>Oldham West and Royton</i>) (Lab) |
| † David, Wayne (<i>Caerphilly</i>) (Lab) | † McGinn, Conor (<i>St Helens North</i>) (Lab) |
| † Davies, Dr James (<i>Vale of Chwyd</i>) (Con) | † Penrose, John (<i>Parliamentary Secretary, Cabinet Office</i>) |
| † Djanogly, Mr Jonathan (<i>Huntingdon</i>) (Con) | † Throup, Maggie (<i>Erewash</i>) (Con) |
| † Evans, Chris (<i>Islwyn</i>) (Lab/Co-op) | Ben Williams, <i>Committee Clerk</i> |
| Flynn, Paul (<i>Newport West</i>) (Lab) | |
| † Foster, Kevin (<i>Torbay</i>) (Con) | |
| † Heaton-Harris, Chris (<i>Daventry</i>) (Con) | † attended the Committee |

Seventh Delegated Legislation Committee

Tuesday 1 March 2016

[MR GEORGE HOWARTH *in the Chair*]

Draft National Assembly for Wales (Representation of the People) (Amendment) Order 2016

2.30 pm

The Parliamentary Secretary, Cabinet Office (John Penrose): I beg to move,

That the Committee has considered the draft National Assembly for Wales (Representation of the People) (Amendment) Order 2016.

The Chair: With this it will be convenient to consider the draft National Assembly for Wales (Representation of the People) (Amendment) (No. 2) Order 2016 and the draft Police and Crime Commissioner Elections (Amendment) Order 2016.

John Penrose: It is good to have you in the Chair, Mr Howarth, guiding us with a deft touch as always. It is a wonderful coincidence of, I am sure, intentional parliamentary scheduling to have a statutory instrument about Welsh elections on St David's day. I begin with an abject apology to the rest of the Committee for not sporting a leek or a daffodil. With a Celtic name like Penrose, I thought I would be pushing my luck as a Cornishman by turning up wearing Welsh apparel. Points of order would have been raised and all sorts of terrible things, but I am with everybody in sympathy at least.

These rules are a vital but, I hope, uncontroversial and rather humdrum piece of electoral plumbing. In this country, we often take it for granted that elections will be run professionally and efficiently by high-quality electoral administrators, but to run smoothly the system depends on detailed legislation such as the orders before us.

The draft orders make changes to the rules for the administration and conduct of elections to the National Assembly for Wales and of police and crime commissioners. In particular, they make provision for the combination of polls at Welsh Assembly and PCC elections when they are held on the same day. They also apply provisions in the Electoral Registration and Administration Act 2013 and associated secondary legislation, which makes a number of changes to the rules for UK parliamentary elections, to Welsh Assembly elections as well.

All three draft orders are similar to measures that have been considered in earlier debates on the conduct of other elections and referendums. The changes have already been made to the PCC elections in a previous instrument that was considered and approved in an earlier Committee sitting. We have consulted on the instruments with the Electoral Commission and with other stakeholders such as the Association of Electoral Administrators and the Welsh Government, and we have incorporated many or all of their conclusions and proposals in the draft orders.

The draft National Assembly for Wales (Representation of the People) (Amendment) Order 2016 requires a poll at an Assembly election to be combined with a poll at a PCC election when both polls are held on the same day, as will happen on 5 May 2016. The order therefore designates the constituency returning officer at the Assembly election as the lead returning officer when an ordinary Assembly election is combined with an ordinary PCC election. It ensures that voters will cast their vote at the same polling station for both polls and that a different coloured ballot paper is used for each poll. Returning officers will be able to issue a single poll card and may issue to postal voters one postal ballot pack with two different sets of voting papers inside instead of two separate packs for each election.

The order updates the forms used by voters, such as poll cards and postal voting statements, to make the voting process more accessible, and includes Welsh language versions of the forms. The order provides for names of candidates to appear on the ballot paper for the election of regional members; for police community support officers to enter polling stations and counting venues under the same conditions as police constables; and that voters waiting in a queue at the close of poll can still vote. It also brings postal voting in Welsh Assembly elections in line with other elections elsewhere in the UK.

In response to a recommendation by the Electoral Commission, the order increases the spending limits for candidates at Assembly elections to take account of the effects of inflation, which means that the maximum amount that candidates standing in an Assembly constituency may spend is increased from £7,150 to £8,700 as well as an additional 9p, up from 7p, for every elector in a county constituency and an additional 6p, up from 5p, for every elector in a borough constituency.

Following a recommendation by the Electoral Commission, the order provides for a fee for a returning officer at an Assembly election to be reduced if they have performed inadequately at the election. That mirrors equivalent provision made for UK parliamentary elections in the Electoral Registration and Administration Act 2013.

The second order simply corrects errors that appeared in the Welsh language sections of some of the forms set out in the National Assembly for Wales (Representation of the People) (Amendment) Order 2016. [*Interruption.*] I hear tutting from the Labour Front Bench. I am sure that the hon. Member for Caerphilly will put right any interpretations in the language of heaven that are needed when he makes his contribution.

The third order complements the Assembly order by making equivalent change to the rules for PCC elections held on the same day as Assembly polls. It also provides that when PCC and Assembly elections are combined, the voting areas for the purposes of the PCC election in Wales are Assembly constituencies rather than local authority areas. That ensures that both polls are administered on the ground using the same area—Assembly constituencies—and a single returning officer. For the PCC poll, the returning officer for a voting area will be the local returning officer who is the constituency returning officer for the Assembly constituency. The Electoral Commission and electoral administrators in Wales specifically requested that we aligned the voting areas in that way to help the effective running of the combined polls. The commission commented that the change reflected

its view and that of returning officers in Wales, and it prevents a potential risk to the effective administration of the election.

I believe and hope that the changes in the orders concerning the conduct and administration of the two sets of polls will help to increase voter participation, support the integrity of our electoral system and ensure that the polls scheduled for May 2016 are run effectively.

2.36 pm

Wayne David (Caerphilly) (Lab): It is a pleasure to be here on St David's day. Even though we are considering matters Welsh by accident rather than design, it is nevertheless great to be here and it is a pleasure to serve under your chairmanship, Mr Howarth. As the Minister said, many of the changes have been discussed and debated in a different form. Many of the proposals apply to the National Assembly for Wales and bring legislation into line with the Electoral Registration and Administration Act 2013.

I want to focus, in particular, on police and crime commissioner elections. As we all know, the first PCC elections, which were held in November 2012, had a lamentable turnout: 15% over England and Wales and a mere 14.9% in Wales. Many of us can refer to incidents where no one turned up at polling stations. I can think of at least one where only one ballot was cast, and that was a postal ballot. All of us who believe in democracy want to see a bigger turnout and greater public engagement, so it is important to learn lessons.

One clear lesson is that it was a mistake to hold those first elections in the middle of winter; these elections, of course, will be on 5 May. There is also an important lesson to learn on publicity. Information was provided by post and websites were established to give information to all electors about the system and the role of PCCs, but no collective support was provided by the Government to allow candidates to disseminate their message; it was essentially up to them to take on that responsibility.

It is true to say that in Wales we had a bit of a shambles with regard to the bilingual forms, which were provided but only late in the day. The Opposition said at the time that a special order was required to allow for bilingual PCC election ballot papers and the Government did not accept that initially. They did accept that eventually but, because that was late in the day, locally ballot papers were provided, according to the law, in English-only in Wales.

When the Government eventually brought forward a statutory instrument, bilingual forms were created. However, that meant that the forms produced initially had to be destroyed, and the total cost was £130,000. We might say that that is not a massive amount, but nevertheless that was £130,000 wasted. Had the Government only listened to the advice provided by Her Majesty's Opposition, that money would have been saved. I am pleased that that lesson has been learnt and that the hands of the Home Office, who I think were the guilty culprits, are no longer to be seen and that the Cabinet Office has dealt with it in what is hopefully a more efficient, effective and sensible way.

These elections, which will be held at a better time of year when people will be more likely to come out of their homes to vote, will coincide with the local elections in England and with the Welsh Assembly elections. That they will be held at the same time as the Assembly

elections is to be welcomed, but there are risks and potential difficulties nevertheless. The Electoral Commission, in an appendix to a report entitled "Combination with the Welsh General Election in May 2016", identified three potential "significant risks". First, it said:

"There will be two different electoral systems in use, incorporating three methods of voting, and three ballot papers."

That is perfectly correct. The additional member system is used for Welsh Assembly elections, so constituency and regional list Members are elected, providing a proportional representation top-up. The PCC elections, of course, will use a supplementary vote system, as they did last time. That is a form of PR, but it is a different form. Understandably, there is the potential for a great deal of confusion among electors if they are being asked on the same day, in the same voting booth, using two different forms of proportional representation and on three ballot papers. That puts great responsibility on the Government to ensure that proper information is provided and proper guidance is given to voters so that there is no unnecessary confusion.

The Electoral Commission's second point is:

"The voting areas for the two sets of elections are different. In Wales, the PCC elections are based on 22 local authority areas within four police areas whereas the Assembly general election is based on 40 Assembly constituencies within five electoral regions."

That is complicated in itself, although I know that the Government recognise that, so hopefully they have introduced measures to minimise confusion and have more streamlining in place.

The Electoral Commission's third point is:

"Police area returning officers are appointed by the UK Government while Assembly Regional Returning Officers are appointed by Welsh Government Ministers. Consequently, different individuals may be appointed to cover the coterminous electoral areas of North Wales and Dyfed Powys/Mid and West Wales. In South Wales and Gwent police areas and the three South Wales Assembly regions, there will be two PAROs but three Regional Returning Officers".

That is immensely complicated, so I would welcome further explanation from the Minister on how those complications are to be tackled so that we have smooth elections and smooth counts afterwards.

Those risks must be effectively surmounted and tackled. The Minister noted that I tutted earlier on because one of the orders is to correct an error in the use of the Welsh language. The explanatory memorandum says:

"Errors in the Amendment Order were identified by deputy counsel to the Joint Committee on Statutory Instruments prior to formal consideration by the Committee. The department was invited to withdraw and re-lay the draft but decided against doing that, and instead has corrected the errors in a combination of correction slip and this instrument."

That seems a rather strange way of correcting drafting mistakes. As is stated later in the explanatory notes, the mistakes appear

"in the Welsh language sections of the forms that are included in the Amendment Order."

With regard to the procedure, I wanted to ask a Minister whether that is the right way to correct mistakes. Would it not be better to have an entirely new document so that we can be clear about what is being corrected and the mistakes that were made?

Although election administration is not really yet a devolved matter, would it not have made sense in this time of devolution to have liaised properly with the

[Wayne David]

Welsh Government, who have more expertise and knowledge of the Welsh language than the central Government, to ensure that such mistakes were not made in the first place? It always makes sense to have co-ordination and co-operation. Devolution, as the Government often say, is based on mutual respect, as it should be, and the Welsh Assembly is the custodian of the Welsh language, so would it not make sense to have a much stronger dialogue with the Assembly and the Welsh Government to ensure that such mistakes do not happen?

My other question is fairly detailed, so if the Minister wants to respond in writing, I am happy to accept that. It relates to the boundary between the South Wales police area and the Gwent police area. Merthyr Tydfil and Rhymney, which is both a parliamentary constituency and a Welsh Assembly constituency, straddles two local authority areas—Merthyr Tydfil County Borough Council and Caerphilly County Borough Council—and the two police areas. What exactly is proposed to streamline that particular situation does not seem clear. There is a duality of contradictory boundaries. Will the Minister provide some explanation regarding the boundaries in that case, which seems to be anomalous in many ways and requires particular attention?

Following those few remarks, I can indicate that the Opposition will of course support the sensible, constructive and necessary amendments in the draft orders. I look forward to hearing the Minister's response.

2.47 pm

John Penrose: I will happily respond to the hon. Gentleman's points, taking each of them in turn. First, however, I want to welcome the general support with which he finished his remarks. It is welcome to hear that the proposals have cross-party support. I was hoping—indeed, he has confirmed it—that this would be an uncontroversial piece of important electoral plumbing and that there would be no need to find party political differences in it.

The hon. Gentleman mentioned that turnout at the first police and crime commissioner elections was relatively low. He and I are both hoping for a dramatically higher turnout this time. I agree with him that the omens are propitious and positive, partly because, as he says, the elections will be held in May, which is usually reckoned to be a better time of year, but also because other elections are taking place on the same day. Given the overlap with other elections, there may be occasional concerns about complexity, but there is no doubt that it can also help to drive up turnout. I hope that democrats on all sides of different political divides will want to see a better turnout than last time at polling stations in early May. I obviously cannot comment on whether the Cabinet Office will do a better job of electoral administration than the Home Office, as the hon. Gentleman kindly suggested, so we shall have to wait and see. With any luck it will be a step in the right direction.

The hon. Gentleman then talked about some risks—as opposed to serious issues—that were flagged up by the Electoral Commission, particularly in relation to the three different forms of voting being used on the same day. There are two varying forms of alternative or

proportional voting and one more traditional first-past-the-post system. He is absolutely right that there is always the potential for confusion, but when we have combined polls in all parts of the UK, in practice we tend to see that voters are pretty canny and capable of coping. Providing that the electoral administration is done in such a way as to have separate ballot papers for each election—most commonly the ballot papers are of different colours—that allows voters to draw a mental distinction between the one, two or three different polls on the same day and to politically and intellectually change gear, as it were, as they fill out one and then move on to the next.

The only time we have had serious concerns about that sort of thing was in Scotland back in 2007, when there was an attempt to combine some ballot papers. That created some concerns but, broadly speaking, electors seem to be capable of coping pretty well. One would obviously not want to push the point too far, but we are not expecting the different elections to be a major problem on this occasion.

The hon. Gentleman also mentioned voting errors. I did mention in my speech the point about electoral administration, but it bears repeating. The instrument provides that where PCC and Assembly elections are combined in the voting areas, the polls for the PCC election will be administered on the ground using the same voting area—that is, the Assembly constituencies—and by a single returning officer. That is a crucial point. The returning officer for a voting area will be the local returning officer for the PCC poll, who is the returning officer for the Assembly constituency. I hope that means that the administration is a great deal clearer and that lines of accountability and responsibility are very clear indeed. The arrangement directly matches the recommendations of both the Electoral Commission and the electoral administrators in Wales. I hope that has maximised our chances of success and clarity on that point.

The hon. Gentleman also mentioned concerns about Welsh language forms. As I said, there was a great deal of concern last time when problems were discovered with the accuracy of the translation of Welsh language forms. I can confirm that two things have happened since then. First, additional checks are now in place to ensure that such a thing is much less likely to happen—it was not terribly likely in the first place, but it is even less likely now. Secondly, as I think the hon. Gentleman mentioned, electoral administration is one of the matters that will be devolved when the Wales Bill has passed through Parliament and become the Wales Act, so this might be the very last time we have to debate the issue in this place; in future it will be dealt with by the Welsh Government in Cardiff.

Wayne David: I very much hope that such matters can be dealt with by the Assembly in Cardiff, but over the past few days things have moved on, with the Secretary of State indicating that his own draft Bill is not fit for purpose and going back to the drawing board. It might be quite a while before we have such a Bill before us.

John Penrose: I hesitate to put words in his mouth—I am sort of paraphrasing—but I think that the Secretary of State said that the Bill would none the less be reintroduced in the second Session of this Parliament, so the hon. Gentleman will not have to wait too long. If he can possess his soul in patience, I hope that he,

and everybody else who is in favour of devolution—I hope that is everybody—will be reassured and will look forward to the result.

The hon. Gentleman asked a rather technical question about the running of the poll in the Merthyr Tydfil and Rhymney constituency. I have been searching for inspiration and will now assay an answer for him—we will see how it goes. He is absolutely right to say that the constituency is the only one to cross a police area boundary. The PCC order amends the definition of voting area for PCC elections where they are combined with Assembly elections so that both sets of elections can be administered on the basis of the same voting area—that is, Welsh Assembly constituencies, as I was just reminding the Committee—by a single returning officer. That will facilitate the running of the polls.

The Electoral Commission also issues guidance to returning officers to help them in their planning for the poll and to carry out their duties. I am sure that the commission will be able to give specific help to the administrators running the poll in that constituency, but the hon. Gentleman is absolutely right that it will perhaps require some special focus and some special guidelines or guidance to ensure that it is done cleanly and effectively.

I hope that I have covered all the questions and provided everybody with answers. With that, I commend all three orders to the Committee.

Question put and agreed to.

Resolved,

That the Committee has considered the draft National Assembly for Wales (Representation of the People) (Amendment) Order 2016.

**DRAFT NATIONAL ASSEMBLY FOR WALES
(REPRESENTATION OF THE PEOPLE)
(AMENDMENT) (NO. 2) ORDER 2016**

Resolved,

That the Committee has considered the draft National Assembly for Wales (Representation of the People) (Amendment) (No. 2) Order 2016.—(*John Penrose.*)

**DRAFT POLICE AND CRIME
COMMISSIONER ELECTIONS
(AMENDMENT) ORDER 2016**

Resolved,

That the Committee has considered the draft Police and Crime Commissioner Elections (Amendment) Order 2016.—(*John Penrose.*)

2.56 pm

Committee rose.

