

Parliamentary Voting System and Constituencies Bill

House of Lords Committee Stage – Day 1
Tuesday 30 November 2010

Please note that this briefing paper comments on certain aspects of the Bill, or amendments, which the Commission believes raise significant issues of workability or policy. The note does not comment on every amendment tabled, and the absence of comment on an amendment does not imply that we support it.

Clause 1 – Referendum on the alternative vote system

Amendments 5 to 12 amend the date on which the referendum is to be held. These amendments could affect the length of the regulated ‘referendum period’. As the Bill currently stands for a 5 May referendum the referendum period would run from the date of Royal Assent until polling day. This means that:

- spending by campaigners will be regulated during the period between that date and 5 May 2011. Campaigning activity that takes place during that period will be subject to the spending limits set out in PPERA. Money spent on campaigning that takes place before the referendum period begins will not count against the spending limits.
- the timetable for campaigners to register with the Commission, and to apply for designation as a lead campaigning organisation on one or other side of the question, will start from the date when the Act is passed.

We have previously said that providing the Bill receives Royal Assent in sufficient time to allow a referendum period of at least 10 weeks before the poll – by 24 February for a referendum on 5 May 2011 – there will be adequate time to register campaigners and designate lead campaign organisations, so that they can put their arguments to voters.

A referendum period of less than 10 weeks would not provide enough time for this to happen. The longer the period between Royal Assent and the poll, the better, since that will allow more time for campaigners to make their case. It is also important that designated lead campaigners are able to make proper use of the publicly funded assistance that will be made available to them, including rights to free mailings and referendum broadcasts. If we believe that this is at risk because of the timetable, we will say so.

Clause 6 and Schedule 9 – Control of loans etc to permitted participants

The Commission welcomes clause 6 and Schedule 9 which introduce controls and reporting requirements on certain loans and similar transactions to registered campaigners in this referendum. The provisions are similar to those introduced for political parties, individuals and members associations in 2006. They cover transactions where a campaigner intends to use benefits arising from the transaction to meet referendum expenses.

The provisions will provide transparency about the use of loans and similar arrangements, on commercial or other terms, to fund campaigning. Registered campaigners will be required to report certain information about such transactions in their referendum expenses return, along with the information on donations that PPERA already requires them to report.

The provisions will also place restrictions on the sources of loans and similar transactions to registered campaigners, equivalent to the existing restrictions on sources of donations. After the provisions have commenced, it will only be possible to enter into such transactions where the other parties to the transaction are 'authorised participants'. These are people and organisations in the same categories as those who can make donations to registered campaigners, such as individuals who are on an electoral register, and companies that are registered and carrying on business in the UK.

The provisions introduce a number of new criminal offences that apply where campaigners and others fail to comply with the controls. In order to allow the Commission to carry out its regulatory role effectively and proportionately, the Political Parties and Elections Act 2009 introduced new civil sanctions (such as monetary penalties and compliance notices) for many of the criminal offences in PPERA, including the equivalent offences relating to loans to political parties. The Commission believes that the Bill should be further amended to make these sanctions available in respect of the new offences relating to loans to campaigners in the referendum.

Schedule 1 – Further provisions about the referendum

Amendments 103 – 107 seek to require, rather than permit, the Chief Counting Officer at the referendum to direct Regional Counting Officers (RCOs) and Counting Officers (COs), and to require those directions to include directions specifically about the duties of RCOs and COs in relation to voters with disabilities.

Amendments 114 – 119 seek to require Counting Officers to ensure that the polling places used at the proposed referendum are accessible to disabled voters, and to notify voters of alternative voting options.

It is clearly important that the voting process is accessible to all electors and that the needs of different groups of people are taken into account. The Chief Counting

Officer will issue instructions and directions to RCOs and COs that cover their existing duties in relation to accessibility and disabled voters under relevant equality and electoral legislation. These include:

- ensuring that polling stations meet the accessibility requirements of the Disability Discrimination Act
- ensuring that information, forms and notices relating to the voting process are available in alternative, accessible formats
- encouraging participation in the proposed referendum, and providing information about the different methods of voting available and how to access them
- making available enlarged sample versions of the ballot paper and tactile voting devices in each polling station to enable voters with visual impairments to vote

Amendments 108 and 109 strengthen the duty on the Electoral Commission to provide information to voters about each of the two voting systems referred to in the referendum question.

We intend to send an information booklet about the referendum to each household in the UK which will include information not only about the voting systems but also about how to take part in the referendum, including how to register and how to vote. This booklet will be available in a range of formats including Braille, audio and large print.

Amendment 110 seeks to place a duty on the Electoral Commission to take particular steps to ensure that support and information is available to disabled voters, and to issue guidance about equality of access to the voting process.

We take seriously our duties as a public body under equality legislation, including the Disability Discrimination Act and the Equality Act 2010 (due to come into force in April 2011), to ensure, among other things, that the information we provide is accessible and available in alternative formats.

As at other elections in the UK, voters who have a disability may ask polling station staff for assistance with voting, or may take someone with them to the polling station to help them cast their vote. And people voting by post may ask someone to help them with the process of completing their ballot paper and postal voting statement. The Chief Counting Officer's instructions for polling station staff will recognise that different voters will have a wide range of needs and aim to ensure that staff are able to meet them.

While we recognise the importance of ensuring the voting process is as accessible as possible, we do not believe that these amendments are necessary given the existing duties and responsibilities of counting officers and the Electoral Commission.

Further Information

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