

Political Parties and Election Bill - Committee Stage 13 November 2008

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

Clauses 12 and 13

Clause 12

Election Falling within a Canvass Period

The Commission supports the intention behind the proposed changes to elections falling within the canvass period. We would welcome clarification on a number of issues, including (a) whether the clause is intended to apply to referendums conducted under the 2000 Act; (b) the reasoning behind the selection of the 1 July date.

We also note that the intended changes will have resource implications for electoral administrators. We urge the Government to ensure that any funding identified as necessary to support the effective implementation of these revised working practices is made available.

Clause 13

Local returning officers for elections to the European Parliament

We welcome the provision which provides for European Parliamentary elections in England, Wales and Scotland to be run on the basis of local authority rather than UK Parliamentary boundaries. These changes will improve the capacity of electoral administrators to run European Parliamentary elections – for example, it will be easier to operate the administration of postal votes. However, we would welcome confirmation that the Government will not seek to commence Clause 13 before the June 2009 European Parliamentary elections for the reasons laid out in our written evidence to the Committee.

New Clauses relating to elections and electoral registration

New Clause 1 – Individual voter registration (incorporating amendments a, b and c)

The Commission made clear in its oral evidence to the Committee on 6 November 2008 its reasons for supporting an early move to introduce a system of individual registration with personal identifiers in Great Britain. We therefore support the intent behind New Clause 1. However, we have a comment on the new clause as amended.

While we are currently of the view that the National Insurance Number would be an appropriate personal identifier for Great Britain, the Committee might wish to consider amending the New Clause so that it allows as an identifier for Great Britain the National Insurance Number or another identifier as prescribed. This would allow for the possibility that an alternative and preferable identifier to National Insurance Number might be found in the future.

New Clause 7 – Opting in to the edited register

The Commission has consistently taken the view that the electoral register should be compiled only for elections, referendums and other limited statutory purposes. We do not believe that the register should be made available for sale and therefore do not support the continued existence of the edited register.

However, the Commission supports this amendment on the grounds that it will lead to an improvement in the current regime by limiting the names on the edited register to those electors who had positively chosen to be on it, as opposed to being comprised of those electors who had not positively opted out.

New Clause 8 – Personal identifiers at the ballot box

While the Commission has not ruled out the possibility of introducing measures requiring voters in Great Britain to provide identification at the polling station, we believe that the introduction of a system of individual registration with personal identifiers in Great Britain should be prioritised in order to provide a more secure foundation for the electoral system.

We note that the system of photographic ID introduced in Northern Ireland appears to have worked well.

Were Parliament to accept this new clause, we believe that further consideration would need to be given to which types of polling station identification might be acceptable in Great Britain. This should include the case for introducing an electoral identity card (as in Northern Ireland) to cover those electors who did not possess other forms of acceptable identification. We believe that these forms of acceptable identification could be set out in secondary legislation at a later date.

New Clause 14 – Moratorium on Electoral Modernisation Pilots

The Commission's evaluation of the May 2007 electoral modernisation pilot schemes concluded that the Government should develop a clear electoral modernisation strategy, which should review progress, set out a clear direction for electoral modernisation and instigate a public and policy debate about the merits of electoral innovations such as electronic voting and electronic counting. We therefore support the broad intent behind New Clause 14, which places a moratorium on electronic voting or electronic counting pilot schemes in England and Wales in order to allow for the completion of a review of electoral modernisation as provided for by New Clause 15 (please see below for the Commission's comments on this clause). We believe that the time period specified (five years) would allow for the completion of such a review followed by consideration by the Government and Parliament of related recommendations.

New Clause 15 – Review of Electoral Modernisation Pilots

The Commission supports the broad intent behind New Clause 15, which calls for a review of electoral modernisation.

The Commission has previously argued that the Government should develop a robust electoral modernisation strategy before further piloting in this area. The strategy should recommend a clear strategic direction for electoral modernisation, explaining in precise terms its overall purpose in the broadest sense. It should also cover a range of key issues, including the timescales for the implementation of any future pilot schemes, procurement, quality assurance and testing, the relationship between local authorities and suppliers, the capacity of Returning Officers and their staff to cope with more complex electoral processes and public trust.

We believe, however, that five years may be too long for completion of such a review and that consideration should therefore be given to reducing this period.

New Clause 17 – Disposal of election documents in Scotland

The Commission supports New Clause 17, which will transfer responsibility for the retention and destruction of election documents for UK Parliamentary general elections in Scotland from sheriff clerks to the Returning Officers. The transfer of responsibility will improve consistency with arrangements for other types of election. It will also make the process more intelligible for members of the public, maintain local points of contact and simplify administrative arrangements.

We understand that the Scotland Office intends to make an equivalent amendment in respect of Scottish Parliamentary elections early in 2009.

New Clause 18 – Filling vacant European Parliament seats in Northern Ireland

The Commission supports the broad intent behind New Clause 18 – which provides for vacant European Parliamentary seats to be filled by a replacement nominated by the relevant political party's nominating officer or, in the case of individual candidates, the previous candidate – since it would help ensure greater representation under the Single Transferable Vote system. We supported this intent in our response to a recent Northern Ireland Office consultation which covered this point among others.¹ However, in our response we said that we thought the system which would be introduced by New Clause 18 lacked transparency since the voter would not know when voting the names of substitutes who might subsequently be put forward. We

¹ The Electoral Commission (2008) Response to the Northern Ireland Office consultation paper – "Improving the administration of elections to the Northern Ireland Assembly".

therefore recommended in our response that the following alternative process should apply:

- Parties fielding candidates, or individuals standing as independents for election to a Northern Ireland constituency seat in the European Parliament could nominate up to three replacements.
- Candidates would have to seek written consent from their proposed substitutes and have the list of substitutes endorsed by the party nominating officer or, in the case of independents, themselves ensure that all substitutes had consented.
- At the close of nominations for the elections, the details of the substitutes for each candidate would be published by the Chief Electoral Officer for Northern Ireland on the Electoral Office for Northern Ireland website. Details of the agreed substitutes would also be displayed at each polling station.
- The nominating officer of a political party (or in the case of an independent, the successful candidate) would be required by law to notify the Chief Electoral Officer of any changes to the substitute list. The Chief Electoral Officer would then publish details of the changes on the Electoral Office for Northern Ireland website.

However, in their response to the comments made on their consultation document², the Northern Ireland Office said that while they appreciated that there would be benefits in having a system in which voters know at the time of voting who a replacement might be, the fact that the list could be modified by the nominating officer post-election could potentially diminish the benefits of publication. The Northern Ireland Office argued that the Commission's proposal provides in essence a very similar outcome to the proposal set out in their consultation paper in that the nominating officer would still have the power to decide on who should fill a vacant seat post-election. Nevertheless, the Commission continues to believe that the approach outlined above would be preferable.

We support **amendments a and b** to new clause 18; insofar as they require the names of possible substitutes to be provided at the time of the election, they do go some way towards addressing the lack of transparency we identified as a feature of the original New Clause 18. However, as already noted, the Committee may wish to give consideration to the Commission's alternative process outlined in full above.

² Northern Ireland Office (2008) Government Response to Consultation: Improving the Administration of Elections to the Northern Ireland Assembly.

New Clause 19 – Use of CORE information

The Commission supports New Clause 19, which improves on the drafting of Section 2 of the Electoral Administration Act 2006.

We especially welcome the CORE-keeper's powers to require action, and proof of action, from Electoral Registration Officers (EROs) on a wider range of electoral integrity issues. This will allow for better detection and more transparent investigation of electoral offences.

The broadening of the circumstances under which the CORE-keeper is required to notify EROs of potential irregularities could have significant resource implications for any future CORE-keeper, which will need to be considered when setting their budget. Also, the relationship between CORE and other aspects of present and future elements of the electoral system, such as individual registration, polling station identification and the Electoral Commission's performance standards framework, need to be considered further. Nevertheless, we support this useful clarification of the existing provisions.

New Clause 20 – Disclosure of election candidate's addresses

The Commission supports the intent behind this clause. In particular, the Commission acknowledges the concerns that have been expressed about the confidentiality of candidates' home addresses and believes that there is a case for considering whether this information should continue to appear in full on nomination papers, the statement of persons nominated and ballot papers.

In the case of UK Parliamentary general elections, providing only the first three or four digits of a postcode may for some electors constitute an adequate level of information about a candidate's proximity or otherwise to a particular constituency. On the other hand, there is a risk with this proposal that Returning Officers would spend an inordinate amount of time checking candidates' home addresses, which could prove distracting during the busy election period, particularly if large number of candidates were standing. The situation at present (as established by case law) is that Returning Officers should not concern themselves with the question of whether the address given is actually the candidate's true home address or not.

The Commission believes that further consideration will need to be given to the impact that this new requirement for checking addresses will have on Returning Officers.

Further information

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