

Electoral Commission response to the Ministry of Justice's consultation on the draft Service Voters' Registration Period Order 2010

Purpose

1. The Commission welcomes the opportunity to respond to this consultation. The draft Order would extend the length of a Service voter declaration from three years to five years. The period in which an electoral registration officer (ERO) must send a reminder to a Service voter is accordingly extended from 33–34 months after the declaration was made to 57–58 months so that the reminder is received in the third month prior to the declaration expiring. The Order extends to the United Kingdom.

Background

2. Service personnel can register as ordinary electors, in the same way as any other elector, or as Service voters by completing a Service declaration. The Representation of the People Act 2000 required those electing to register via the Service declaration to renew their registration each year. Each ERO was required to write to each declarant three months before the existing registration expired to remind them of the need to renew if they wished to remain registered as a Service voter.
3. However, the Electoral Administration Act 2006 gave the Secretary of State the power to vary the length of time that the declaration lasts to between one and five years. An Order to do this must be made using the affirmative resolution procedure. In December 2006, an Order increasing the length of the Service declaration in Great Britain to three years was made. The equivalent change was made in Northern Ireland in June 2008. The Commission supported these changes.
4. During the passage of the Political Parties and Elections Act 2009 an amendment was tabled which, if accepted, would have made the Service declaration indefinite. The Commission and the UK Government opposed this measure on the grounds that it could result in inaccuracies in the register. However, the Government did agree to increase the length of the declaration to five years. The draft Service Voters' Registration Period Order 2010 would give effect to this commitment.

Commentary on the draft Order

Wording

5. We suggest the following changes to the wording of the draft order:
6. In Article 2, the brackets should be closed after 'civil partners'; the phrase 'or entitled to be registered' should be deleted and '3 years' should be substituted with '12 months'. Article 2 would then read:
 - a. Section 15(2)(a) of the Representation of the People Act 1983 shall have effect for the persons mentioned in section 14(1)(a) and (d) of that Act (members of the forces and their spouses or civil partners) who have made a service declaration and are registered in pursuance of it as if for "the period 12 months" there were substituted "the period of 5 years"
7. Section 15(2)(a) does not include the words '3 years'; the 2006 regulations merely state that it should be read as '3 years' instead of '12 months' in the case of Service voters and their spouses or civil partners. Also, this 2010 Order revokes the 2006 Order.
8. The other changes mean that the persons mentioned in section 14(a) and (d) are properly defined and that the wording matches that of section 15 of the 1983 Act (which makes no reference those who are entitled to be registered but have not done so).
9. Similarly, Articles 3, 4 and 5 would be improved if, instead of the wording in brackets after 'the 1983 Act', in each case they read '(members of the forces or their spouses or civil partners) and is registered in pursuance of a service declaration'.
10. In the explanatory notes, the second sentence seems to imply that a Service qualification comes from having made a service declaration. It would be more accurate if, after 'civil partner', it read 'registered, who have made a service declaration'.

Policy intent

11. The Order aims to extend the service declaration period to five years and make the required changes to the period in which EROs must send reminders. The format of these clauses is consistent with that used in the Service Voters' Registration Period Order 2006 (hereafter referred to as the 2006 Order), which applied to England, Scotland and Wales and the Representation of the People (Northern Ireland) Regulations 2008, which covered Northern Ireland.

12. When setting the length of the declaration period there is a need to balance convenience for Service voters against the risk that a longer declaration period will result in entries on the electoral register becoming out of date.
13. A longer declaration period risks disenfranchising the Service voter and may increase the opportunity for electoral fraud because polling cards or postal ballots may be set to an address where the Service voter is no longer resident.
14. It is also important to consider other factors which may be relevant to the setting of a suitable declaration period. For example, the Ministry of Defence (MoD) have advised us that four years is a normal minimum service length for a soldier. In addition, elections are generally held in cycles of four or five years. Therefore, a declaration that lasts five years will cover all of the minimum service length and allow the Service voter to vote in at least one of each type of election.
15. Given this, we would support a Service declaration period of five years if the Ministry of Justice and Ministry of Defence feel that this is appropriate. However, we feel that five years is probably the upper limit for the length of declaration that would be appropriate under the current registration system.
16. The risk of inaccuracies in the register resulting from a longer Service voter declaration could be mitigated by taking steps to ensure that the relevant ERO is notified by the military when a Service voter (or their spouse) leaves the Service. The Commission will give further consideration to this issue and, if appropriate, consult with the Ministry of Defence and then update its guidance for EROs.

Individual electoral registration

17. The Political Parties and Elections Act 2009 provides a timetable for the phased implementation of individual electoral registration (IER) in Great Britain. If IER is introduced on a mandatory basis from 2015, electors will have two years of carry-forward in which to supply the necessary personal identifiers. By June 2017 all 'regular' electors must have provided identifiers or they will be removed from the register.
18. However, under the proposed Service Voters' Registration Order 2010 it would be possible for a Service voter declaration to be made in May 2015 and expire in May 2020. This would mean that, for three years from 2017, Service voters would not have provided the same personal identifiers as regular voters.

19. This issue could be resolved in a number of ways: for example, by amending the Service voter provisions upon the introduction of mandatory IER or by allowing the signature and Service number to suffice as a Service voter's personal identifiers until June 2020.
20. We do not have a preferred option at this stage but feel it is important to highlight this issue now. Other special categories of voters such as overseas voters and Crown servants will not present such problems because their declarations last only one year.

The Electoral Commission
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