

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Ninth Delegated Legislation Committee

DRAFT REPRESENTATION OF THE PEOPLE
(SCOTLAND) (AMENDMENT) REGULATIONS 2018

Wednesday 7 February 2018

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The Committee consisted of the following Members:

Chair: SIOBHAIN McDONAGH

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| † Benyon, Richard (<i>Newbury</i>) (Con) | † Kerr, Stephen (<i>Stirling</i>) (Con) |
| † Boles, Nick (<i>Grantham and Stamford</i>) (Con) | † Morris, Grahame (<i>Easington</i>) (Lab) |
| † Bowie, Andrew (<i>West Aberdeenshire and Kincardine</i>) (Con) | † Sheppard, Tommy (<i>Edinburgh East</i>) (SNP) |
| † Campbell, Mr Ronnie (<i>Blyth Valley</i>) (Lab) | † Shuker, Mr Gavin (<i>Luton South</i>) (Lab/Co-op) |
| † Churchill, Jo (<i>Bury St Edmunds</i>) (Con) | † Smith, Chloe (<i>Parliamentary Secretary, Cabinet Office</i>) |
| † Dent Coad, Emma (<i>Kensington</i>) (Lab) | † Smith, Laura (<i>Crewe and Nantwich</i>) (Lab) |
| † Fabricant, Michael (<i>Lichfield</i>) (Con) | Claire Cozens, Nehal Bradley-Depani, <i>Committee Clerks</i> |
| † Fletcher, Colleen (<i>Coventry North East</i>) (Lab) | |
| † Foster, Kevin (<i>Torbay</i>) (Con) | |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | |
| † Jack, Mr Alister (<i>Dumfries and Galloway</i>) (Con) | † attended the Committee |

Ninth Delegated Legislation Committee

Wednesday 7 February 2018

[SIOBHAIN McDONAGH *in the Chair*]

Draft Representation of the People (Scotland) (Amendment) Regulations 2018

2.30 pm

The Parliamentary Secretary, Cabinet Office (Chloe Smith): I beg to move,

That the Committee has considered the draft Representation of the People (Scotland) (Amendment) Regulations 2018.

It is a pleasure to serve under your chairmanship, Ms McDonagh, and to continue to serve alongside any hon. Members who are joining me for this marathon consideration of three statutory instruments in one day.

The purpose of the regulations is to make registering to vote anonymously for UK parliamentary elections in Scotland more accessible for those who need it most. They will also strengthen the integrity of the electoral register, and improve the registration system for electors. To give a little context, the draft regulations amend the Representation of the People (Scotland) Regulations 2001. The changes will cover the parliamentary electoral registers. As local government electoral registers are a devolved matter in Scotland, the Scottish Government are proposing similar changes in the Scottish Parliament. It is important that the changes are applied UK-wide, and similar legislation for England and Wales and Northern Ireland has been, and will be, debated and considered in Committee today.

Yesterday marked 100 years since legislation was passed to give some women the right to vote in the UK. That was the first step to the equal franchise in the UK, but the journey to maximise electoral registration continues.

Michael Fabricant (Lichfield) (Con): This may be completely irrelevant, but you will be the judge of that, Ms McDonagh. Does the Minister know that the Americans gave such emancipation some two and half years after Britain? I thought that the Committee should note that.

The Chair: As Chair, I will be generous and broad in my interpretation of what is in the scope of the legislation.

Chloe Smith: Thank you, Ms McDonagh, and I thank my hon. Friend for reminding us that we may be seen as a pioneer. Let us hope that today we can all come together regarding this piece of the electoral system, and agree that we should press on further, which is what we are doing today.

Today's legislation is about the fear of having one's name and address appear on the electoral register, and how that can be a barrier to registering to vote, and therefore engaging in democracy. It seems fitting this week to debate changes that make it easier for vulnerable individuals to exercise their democratic rights. Anonymous registration was first introduced in Great Britain by the Electoral Administration Act 2006, which amended the Representation of the People Act 1983 and provided for the overall structure of the scheme. The scheme protects those whose safety would be at risk if their name or

address appeared on the electoral register—for example, victims of harassment or stalking, and some witnesses in criminal court cases. An applicant must provide their local electoral registration officer with evidence that demonstrates that their safety would be at risk. The evidence accepted is prescribed in legislation as either a live court order or injunction from a set list of orders and injunctions, or what is known as an attestation. That is a signed statement certifying that the applicant's safety would be at risk if the register contained their name or address. It can be made only by professionals listed as qualifying officers, such as a police superintendent or a director of social services.

About two years ago, Mehala Osborne, with the support of Women's Aid, started a petition to make anonymous registration more accessible for those who need it most. As a result, the Government announced in September 2016 that they would look closely at whether the current system of anonymously registering could be improved to make it easier. The Government consulted on potential changes to improve the accessibility of the scheme with domestic abuse charities, the electoral community, bodies representing potential attesters and others. The responses that the Government received were broadly positive. I pay tribute to my predecessor as Minister for the Constitution, my hon. Friend the Member for Kingswood (Chris Skidmore), for his hard work and passion in making the changes a reality. The instruments make sensible changes, which make the anonymous registration scheme more accessible for those who need it most.

Turning to the detail, the draft regulations update the list of court orders and injunctions that can be provided to an ERO—an electoral registration officer—as evidence to demonstrate that an individual's safety would be at risk if their name or address appeared on the register. As evidence, applicants will be able to use domestic violence protection orders made under the Crime and Security Act 2010 or the Justice Act (Northern Ireland) 2015, once that is in force. They will also be able to use female genital mutilation protection orders made under the Female Genital Mutilation Act 2003. Those are new and relevant orders that have been created since the anonymous registration scheme came into force.

The draft regulations will also broaden who can provide attestations that the individual's safety would be at risk. The required seniority for a police officer will be lowered from the rank of superintendent to the rank of inspector, which will make it easier for applicants to obtain an attestation. Police inspectors are frequently in contact with survivors and will be well qualified to assess the level of risk to an individual's safety. Medical practitioners registered with the General Medical Council and nurses and midwives registered with the Nursing and Midwifery Council will also be able to act as attesters. Those professionals are again frequently in contact with survivors and are qualified to assess the level of risk.

Managers of refuges for those escaping domestic violence will also be able to act as attesters. Anybody who has been supported by a refuge would then have easy access to somebody who can provide the attestation. Refuge managers are specialists in their field and we think they are well placed to make the attestation. They are also in direct and sustained contact with domestic abuse survivors, making them approachable for those looking to use the scheme.

The changes make sure that the evidence required to register to vote anonymously is more reflective of the experiences of survivors of abuse. The Government have consulted on the draft regulations with the Electoral Commission, the Scottish associations of administrators, representative bodies of the newly qualified attestors and Women's Aid. There is general agreement that the changes being brought forward are desirable to ensure the safety of those who would be most at risk, and to help them engage in our democratic system. Women's Aid strongly welcomes the changes that the statutory instrument makes, saying that the proposed new measures send out a clear message to all survivors of domestic abuse that their voice and their participation in politics matter.

The statutory instrument also makes further changes to the wider registration system, with the aim of improving electoral registration processes for the citizen and making it easier and more effective for EROs to administer. They also seek to improve the integrity of the system and the accuracy of the electoral register, by addressing two recommendations made in Sir Eric Pickles's review on electoral fraud. In addition to Sir Eric's recommendations, the incremental changes have been identified through extensive consultation with the electoral community—those on the coalface running elections and services. They put the citizen first and will help EROs to provide modern and efficient registration services.

The first proposed change addresses recommendation 14 in the Pickles review. It adds a statement to the paper application form that states that persons who are not eligible electors are ineligible to register to vote and that, in relation to nationality, applicants may be required to provide additional information, or otherwise checks may be carried out by the ERO against Government records. The change seeks to enhance the deterrent against applicants providing false information in respect of their nationality. It reminds the applicant that an ERO can and will seek further information to corroborate the information provided, where they may have concerns.

The second proposed change addresses recommendation 12 of the Pickles review. It adds a statement to the paper application form that informs applicants that their application may be delayed if they do not provide previous addresses at which they have ceased to reside within 12 months of the date of their application. That change aims to minimise the number of incomplete applications being submitted on paper forms. The provision of an applicant's previous address is one of only two ways that an out-of-date and redundant entry can be removed from the register with only one source of evidence, and thus it serves as an important way to maintain the accuracy of the electoral register.

The third proposed change expands the number of sources of information that can be used by EROs to remove deceased electors from the electoral register. Where they have not been able to obtain a death certificate or a registrar notice, they will be permitted to use one of four further sources of evidence to support the decision to remove a deceased elector: information from a close relative, a canvass form, a care home manager or other local records. I hope the Committee agrees that using such information is an appropriate response to avoid unnecessary distress for the relatives of any deceased elector. It balances the need for evidence with the sensitivity of providing a service to the citizen that they would expect at such a difficult time, and it again helps EROs maintain the accuracy of the register.

Detailed consideration has been given as to whether that could increase the risk of fraud as part of the registration system, but we think that will be minimal. EROs are already required to use current sources of information before using the information sources permitted under the regulations. Also, EROs must be satisfied that the information they have received is accurate, and where they have any concerns at all they remain able to seek additional sources of information to support their decision.

The final proposed change to the registration system streamlines and simplifies correspondence that EROs are required to send to electors. These changes are designed to reduce the cost of the registration system and provide greater discretion to EROs to tailor their approach based on the needs of electors. This saving will be achieved by requiring additional information to be included in a first notification to an elector that their entry on the register is under review. That then allows the sending of a second notification, of the outcome of the review, to become discretionary. The regulations also make sending a notification of changes to an elector's open register preference discretionary. That streamlines the process and brings it in line with other public and private services.

In summary, the draft regulations make sensible and proportionate changes to the wider registration system, in addition to this important change, in this centenary year, of being able to support survivors of domestic abuse. Making it easier for someone to register without their name and address appearing on the electoral register may appear a small thing, but it makes a big difference. It means the freedom to live their life, to cast their vote and to make their choice. As Mehala Osborne said:

“Survivors in the future will not be denied their voice and democratic right to vote.”

I commend the regulations to the Committee.

2.41 pm

Laura Smith (Crewe and Nantwich) (Lab): It is a pleasure to be here to serve under your chairwomanship, Ms McDonagh. This is my first time doing anything like this on the shadow Front Bench, so please bear with me.

The Representation of the People Act 1918, as we all know, was a crucial step forward for the empowerment of women. Yesterday, as we marked the centenary of property-owning women over 30 winning the right to vote, we were reminded that the fight for equality is indeed a journey. That was just one of many steps for women, and 100 years later the struggle for equality continues. There are still too few women in Parliament, and women still face discrimination in the workplace and in everyday life. It has been a slight shock for me, coming into this kind of working environment after working, as a primary school teacher, with wonderful women for a long time, to see the discrimination that still exists in some workplaces.

As the Minister outlined, the purpose of this legislation is to give survivors of domestic abuse in Scotland a voice in our democracy. Domestic abuse is an issue that concerns all of us. I am sure that many of us here today will know somebody who has experienced some form of domestic violence. National figures show that one in four women will experience domestic violence at some point in her life, and two women every week are killed by a current or former partner. Sadly, although we are

[Laura Smith]

here to discuss changes to the system of anonymous voter registration, we cannot ignore the wider context of this Government's austerity agenda. Women's refuges have seen their budgets slashed by nearly a quarter over the past seven years, despite the Prime Minister's pledge to boost funding for women escaping violent partners.

Turning to anonymous voter registration, it cannot be right that survivors who have faced the physical, emotional and psychological impacts of abuse are then also silenced as participants in our democratic process. Why does that happen? Because it is too dangerous for their name and address to be listed on the electoral register, and it is too difficult for them to register anonymously.

As the Minister explained, under existing legislation domestic abuse survivors must provide a court order or have their application supported by a senior independent witness, such as a high-ranking police officer, to appear anonymously on the electoral register. The proposals outlined today will add doctors, nurses and refuge managers to the list of people who can act as an attester and will lower the rank of police officer authorised to perform the function from superintendent to inspector.

It is vital that every eligible voter is able to participate in our democracy, and that is why the Opposition very much welcome the proposals. I thank Women's Aid, which has been at the forefront of shaping and co-ordinating responses to domestic violence and abuse for more than 40 years, including this very legislation. However, it is clear that the measures do not go far enough. Survivors will still have to re-register to vote anonymously year on year, and those who move home will have to repeat their application. For many survivors, anonymity is a matter of life and death, and often women are on the run from domestic abuse for the rest of their lives. We support Women's Aid, which has been calling on the Government to use the Domestic Violence and Abuse Bill to pass legislative changes to make survivors' anonymous voter registration valid and indefinite, so that they can vote in safety for life. Will the Minister outline the Government's position on that proposal? What discussions has she had with her colleagues in the Home Office?

The Minister has also outlined proposals to expand the data sources available to registration officers to enable them to remove entries from the register as a result of death. That is a sensible measure, but it is disappointing that the Government are focusing their energy on removing people from the electoral roll while refusing to use the same data-sharing techniques to address the millions of voters who are missing from the electoral register. The Opposition are committed to taking radical steps to increase voter registration and turnout. That is why we have called on the Government multiple times to examine the use of Government data to automatically place eligible electors on the electoral roll.

In conclusion, 2018 cannot be a year for complacency. As we celebrate the last 100 years of democratic change, we should be looking for progressive and radical solutions to address this country's democratic deficit.

The Chair: Am I missing anyone else who wants to make a contribution? I call Mr Sheppard.

2.47 pm

Tommy Sheppard (Edinburgh East) (SNP): I rise briefly to associate the third party with the contextual remarks of the Minister and the shadow Minister that recognised not only the advances we have made to our democracy in the past century, but that there is always more to do. For our part, we welcome the proposals and wish to offer no opposition to them. They are a valuable step in the right direction, and I know that the Scottish Government agree with them and will be making regulations of their own to be effective on the same day, so that the totality of the electorate and elections are included in the advance.

The Chair: I call the Minister to sum up.

2.48 pm

Chloe Smith: Thank you, Ms McDonagh. First, I thank both the hon. Members who have spoken for their support and that of their parties for the measures. I am delighted that we all agree on the importance of doing this and are united in getting it done. I will answer a few of the points raised by the hon. Member for Crewe and Nantwich. I welcome her to her place, and I look forward to working with her and the hon. Member for Edinburgh East on many issues as time goes on.

I want to make a general point on refuge funding, which is where the hon. Lady began her remarks. It is important to note that responsibility for refuges is devolved for Scotland. For England and Wales, I can confirm that the Government have put aside a £20 million fund to support refuges. That will create more than 2,200 bed spaces and support more than 19,000 victims. That is important and valuable in the context of the concerns that she expressed. She will know that the most recent consultation on how refuges can be supported through the housing system has only recently closed and the Government will be looking at all the evidence submitted.

The hon. Lady asked whether the regulations could go further, in allowing for indefinite registration instead of the need to renew annually. I want to put on record the Government's view, because that fair question has been asked outside as well as inside this place. The Government are, of course, mindful of the long-term risks that can be faced by domestic abuse survivors and I understand that in certain cases it might be difficult to return to completing paperwork every year.

I will offer three thoughts on the reasons behind our approach. The first is technical and most applicable. Provisions on yearly renewal are in primary legislation and could not be tackled by the regulations before us. The Committee will recognise that work on primary legislation is at a premium in this Parliament so, regrettably, we have had to focus on what can be achieved through secondary legislation.

Secondly, I think the intention of Parliament at the time of the scheme's introduction was to support individuals with a current risk, as opposed to an historical one. That is a point of principle rather than practicality. To be able to attest or provide evidence more regularly, or at all, as opposed to indefinitely, is important because it points to the existence of a current risk to an individual, rather than one in the past that might no longer be current.

The third reason is that EROs have a duty to maintain the accuracy of their registers. That is an underpinning duty within the democratic system. To lack an opportunity

to check people with anonymous registration could make that duty more difficult. Yearly renewal supports EROs' ability to keep accurate records of who resides where, even if that information is anonymous when the public part is issued.

The final point raised by the hon. Lady concerned deceased electors. She thought it disappointing that we were focusing on removing rather than adding electors. I will say to her gently that we are talking about dead electors. It is important for the accuracy of the register to remove deceased electors; I hope the Committee agrees. The Government want to see accurate and complete registers.

Laura Smith: I just want to say that in my speech and notes it definitely states that I agree with removing deceased people. My point was about putting more people on the register. I would like to put that on the record.

Michael Fabricant: Her job is saved!

Chloe Smith: I was confident that was the case. I am confident that the Committee is in full agreement that we want EROs to maintain an accurate and complete

register. To explain those terms, the second, completeness, is what the hon. Lady is talking about. All those who are eligible to register are registered. That is the other of the twin aims of electoral registration.

I am delighted to report that accuracy and completeness are both at high levels—higher than when I previously held this role. We have seen those go up since introducing individual registration. I also point the hon. Lady to a document published just before Christmas by my predecessor about further democratic engagement and the ways in which we can ensure that those who belong to groups that might traditionally have been under-registered, such as some disabled people who, for various reasons, might have found it difficult to tackle the registration system, are able to take part.

We are setting out ways to welcome everybody who is eligible to register on to the registration system, which is very important. In that spirit, I return to the measures before us, which are about accuracy and completeness. Overall, it is about a sense of justice that those who have faced abuse should not lose their right to vote and we are making it easier for them to register.

Question put and agreed to.

2.55 pm

Committee rose.

