

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT NORTHERN IRELAND (MINISTERIAL APPOINTMENT FUNCTIONS) REGULATIONS 2019

Monday 11 February 2019

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Friday 15 February 2019

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The Committee consisted of the following Members:

Chair: MR CHARLES WALKER

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| † Campbell, Sir Alan (<i>Tynemouth</i>) (Lab) | † Pursglove, Tom (<i>Corby</i>) (Con) |
| Duffield, Rosie (<i>Canterbury</i>) (Lab) | Robinson, Gavin (<i>Belfast East</i>) (DUP) |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Jones, Susan Elan (<i>Clwyd South</i>) (Lab) | † Sturdy, Julian (<i>York Outer</i>) (Con) |
| † Killen, Ged (<i>Rutherglen and Hamilton West</i>) (Lab/
Co-op) | † Syms, Sir Robert (<i>Poole</i>) (Con) |
| † McFadden, Mr Pat (<i>Wolverhampton South East</i>)
(Lab) | † Warman, Matt (<i>Boston and Skegness</i>) (Con) |
| † Pawsey, Mark (<i>Rugby</i>) (Con) | † Watling, Giles (<i>Clacton</i>) (Con) |
| † Penrose, John (<i>Minister of State, Northern Ireland</i>
<i>Office</i>) | † Whately, Helen (<i>Faversham and Mid Kent</i>) (Con) |
| † Pound, Stephen (<i>Ealing North</i>) (Lab) | Ben Sneddon, <i>Committee Clerk</i> |
| | † attended the Committee |

Third Delegated Legislation Committee

Monday 11 February 2019

[MR CHARLES WALKER *in the Chair*]

Draft Northern Ireland (Ministerial Appointment Functions) Regulations 2019

4.30 pm

The Minister of State, Northern Ireland Office (John Penrose): I beg to move,

That the Committee has considered the draft Northern Ireland (Ministerial Appointment Functions) Regulations 2019.

It is a pleasure to have your hand on the tiller for our proceedings, Mr Walker. I do not propose to take a great deal of time setting out the statutory instrument initially, because it is simply one of those that are forced on us by the absence of a Northern Ireland Executive at Stormont. This is not something that anyone here particularly wants to have to pass as an SI through the Westminster Parliament, but we have to do that simply because there are a small number of ministerial appointments for the smooth running and good governance of Northern Ireland that have become both urgent and important and without which good governance in Northern Ireland would be increasingly difficult.

The positions, ranging from the Attorney General for Northern Ireland through to member or chair of the Northern Ireland Local Government Officers' Superannuation Committee, are listed in regulation 2(2) and (3). It is notable and welcome that the SI is short, covering just two sides of a piece of paper. I am very happy to go through any one of those offices for anyone who has particular questions about why it is included and when the current incumbents' terms of office are due to finish, if the Committee is interested, but the initial indications informally, before we tabled the regulations, were that this is relatively uncontroversial and straightforward legislation. Therefore, I do not propose to go into lots of detail unless required, but of course other members of the Committee may feel differently—I feel an intervention coming on.

Mr Pat McFadden (Wolverhampton South East) (Lab): I am grateful to the Minister for letting me intervene. I understand why the Government have to introduce an SI such as this to cater for such appointments. As he rightly says, it reflects the absence of devolved government over quite a long period. May I ask him this? Apart from the piecemeal approach set out in such SIs, has there been a broader discussion in Government about the restoration of direct rule?

John Penrose: I can confirm that those meetings and discussions—sometimes very privately bilaterally, sometimes more broadly—are ongoing. The right hon. Gentleman will be aware that we have primary legislation that we passed just over four months ago that is due to be extended, if Parliament feels that that is right, in order to allow time—two five-month consecutive periods—for the restoration of devolved government in Northern Ireland.

Until those two five-month periods have been completed, we are trying to create a space in which talks about talks and discussions about how to restore the Executive can be undertaken. If at the end of the first five months, we do not decide to renew for the second five months, or if at the end of the second five months we are still without a devolved Administration in Northern Ireland, at that stage that primary legislation lapses and at that point the Secretary of State's existing legal duties to hold a local election in Northern Ireland come back into force—that is the purpose of the legislation—and therefore everybody, on all sides, has an interest in trying to ensure that the devolved Administration in Northern Ireland are restored as soon as that can be done.

I can see that the right hon. Gentleman wants to intervene again, but I will just make one more point before he does. These six examples of appointments are just the ones that are both urgent and important. There is a lengthening list of policy changes and other issues, which is growing every day, that would be far better served, for the people of Northern Ireland, if a devolved Executive were in place to take those decisions and to get government in Northern Ireland moving again. This is not something where pressure is going down; pressure is rising steadily. I am sure that I speak for everyone here—I hope I do—when I say that I am sure everyone wants to see the restoration of devolved government. That was central to the Belfast agreement. Everyone will understand that it is far better to have a functioning local democratic Administration in Northern Ireland, if at all possible, and with that I will give way once more.

Mr McFadden: I am extremely grateful to the Minister for his patience. I agree, as we all do, I am sure, with what he says about the desirability of restoring devolved government. Most of his comments in response to me have been about how much effort the Government have been putting into that, which is absolutely great, but my question was: has there been any discussion about what happens if that does not work? Will the Government end up having to make a decision they do not want to make and restore direct rule?

John Penrose: The legal position is that after the five months, which come to an end in March, Parliament must decide whether to grant a second five months, all the time working and hoping for and, we hope, supporting the notion of restoring devolved government in Northern Ireland. If at the end of the second five months, or if there is no renewal for those second five months, the Secretary of State has an existing legal duty that is currently in suspension to consider whether a further election in Northern Ireland would be required. That is the legal requirement, rather than a requirement to return to direct rule. I know that everyone would want to avoid going to direct rule and would, therefore, want us to consider direct methods of getting a local election going in Northern Ireland, if necessary. Clearly, the best option is to restore existing Members of the Legislative Assembly to their place in Stormont.

With that, I propose to do something unusual for a politician and that is to stop talking, sit down and see whether anyone wishes me to answer any questions.

4.36 pm

Stephen Pound (Ealing North) (Lab): Normally, there is no greater or more dangerous hostage to fortune than to say that something is an uncontroversial, minor piece

of legislation, because after three or four hours have passed we generally realise that perhaps it is not so minor or uncontroversial. However, in this case, I believe the Minister might be right.

May I take the opportunity not just to say what a pleasure it is to serve under your benevolent dictatorship—oversight—Mr Walker, but also to welcome the Minister? I have opposed him across the Dispatch Box but we have not had an opportunity to formally welcome him. He is one of a small but highly distinguished group of politicians who cut their political teeth in the borough of Ealing and went on, in most cases, to far greater things. I refer to him, the right hon. Member for Putney (Justine Greening), you, Mr Walker, and the hon. Member for Shrewsbury and Atcham (Daniel Kawczynski). In the case of the Minister, I remember well that in 1997 he took on the then incumbent and managed to reduce the Labour majority to a knife edge—21,423. We still remember that with great affection.

This is something that Labour has consistently called for and we entirely accept and understand the Minister's overarching point, that we would not be here out of choice and would much rather that the appointments, re-appointments and reconfirmations were handled where they should be, by an Assembly and an Executive in Northern Ireland. However, following up on the comments made by my right hon. Friend the Member for Wolverhampton South East, we need even more energy and activity on the part of the Minister and the Secretary of State in seeking to act on the appointments and to progress towards re-establishing the Executive.

The original focus on this side of the House was on the Northern Ireland Policing Board, which has oversight of policing and comprises political and independent members and the prisoner ombudsman. I am glad to say that that board has been appointed, and on 2 February Rev. Lesley Carroll was appointed as the new prisoner ombudsman. May I take this opportunity to put on record my best wishes for her? I have met the reverend on a number of occasions and she will be a first-class ombudsman. This is an excellent appointment and one that has the approval and approbation of the House and certainly that of the community in Northern Ireland.

We welcome the appointments being made under the SI, but we ask the Minister to outline what consultation the Government will have with Northern Irish political leaders and the leadership of Opposition parties in Westminster in the event of an incumbent not seeking reappointment. Although we all want to see devolution restored, the Opposition are not over-brimming with confidence in the Government's ability to do that. As such, is the Minister considering any further appointments, given that we are two years on from the collapse of the institutions? We cannot allow a vacuum or any sort of hiatus in those appointments, because frankly there are people who flourish in the darkness. There will always be people there to take advantage of that vacuum. We would like to see those appointments progressed, but in the meantime we endorse the Minister's comments. We wish him a fair following wind. We understand why he has had to table these regulations, and we support him in the spirit of bipartisanship.

4.40 pm

John Penrose: I thank the Opposition for their kind support. I appreciate that I tempted fate by saying this is an uncontroversial piece of legislation, so I am grateful

for their support to avoid my being proven too badly wrong. Incidentally, I remember fondly my excursion to Ealing, Southall, where I ate a great deal of curry, although I cannot say I troubled the scorers much more than that. It was a great time to learn the basics of campaigning. I think that the hon. Gentleman was first elected at the same time as I was not elected, but he was campaigning with a great deal more aplomb and certainly a great deal more success than I was at the time.

Stephen Pound: On a point of order, Mr Walker, the Minister and I both attempted to unseat the incumbent. In my case, it was Harry Greenway in Ealing North, and in his case, it was the late Piara Khabra in Ealing, Southall. One of us succeeded.

The Chair: I think that was a debating point, not a point of order. It was a very fine debating point.

John Penrose: Moving swiftly on, the hon. Gentleman asked about the process of appointments and what would happen in a couple of different scenarios, such as if incumbents were not going to stand or if people might not be reappointed. The simplest answer is that the process for all the appointments will be governed through the independent regulation process. That is either the Commissioner for Public Appointments for the UK or the Commissioner for Public Appointments for Northern Ireland. We are required to follow some very important and straightforward rules, and we will of course be following them in every case. I am not sure whether they necessarily require full consultation with Opposition parties, but they are designed to ensure a proper, independent and, as far as possible, entirely transparent and meritocratic process is followed. We will of course follow that wherever we can.

Stephen Pound: May I put down a marker and say that in the case of judicial appointments, we would very much appreciate at least being involved? I am not asking for a veto; I am saying that due to the serious and sometimes controversial nature of judicial appointments, we on the Opposition Benches would like at least to be in the picture.

John Penrose: The hon. Gentleman brings me neatly on to the second point he raised, which was about appointments other than those listed in the regulations. May I at this stage keep our collective powder dry and say that were we to need to add to the list in the regulations by bringing forward other SIs to extend it—everybody hopes we will not have to—that would inevitably be subject to the normal parliamentary process of scrutiny? I am sure that he will have an opportunity to raise that point and/or any others, depending on what other positions are listed in those potential SIs, as those other positions come forward.

I hope that has answered all the hon. Gentleman's questions and that I have not tempted fate or tested anyone's patience too much in our consideration of this uncontroversial piece of legislation.

Question put and agreed to.

4.43 pm

Committee rose.

