

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Nineteenth Delegated Legislation Committee

DRAFT EUROPEAN PARLIAMENTARY
ELECTIONS ETC. (REPEAL, REVOCATION,
AMENDMENT AND SAVING PROVISIONS)
(UNITED KINGDOM AND GIBRALTAR) (EU EXIT)
(AMENDMENT) REGULATIONS 2019

Tuesday 8 October 2019

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The Committee consisted of the following Members:

Chair: PHILIP DAVIES

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| † Bradley, Ben (<i>Mansfield</i>) (Con) | † Killen, Ged (<i>Rutherglen and Hamilton West</i>) (Lab/Co-op) |
| † Brereton, Jack (<i>Stoke-on-Trent South</i>) (Con) | † Linden, David (<i>Glasgow East</i>) (SNP) |
| Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab) | † Mak, Alan (<i>Havant</i>) (Con) |
| Daby, Janet (<i>Lewisham East</i>) (Lab) | † Matheson, Christian (<i>City of Chester</i>) (Lab) |
| † Dent Coad, Emma (<i>Kensington</i>) (Lab) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Dhesi, Mr Tanmanjeet Singh (<i>Slough</i>) (Lab) | † Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| † Fletcher, Colleen (<i>Coventry North East</i>) (Lab) | † Thomson, Ross (<i>Aberdeen South</i>) (Con) |
| † Foster, Kevin (<i>Parliamentary Secretary, Cabinet Office</i>) | Yohanna Sallberg, <i>Committee Clerk</i> |
| † Harper, Mr Mark (<i>Forest of Dean</i>) (Con) | |
| † Kawczynski, Daniel (<i>Shrewsbury and Atcham</i>) (Con) | † attended the Committee |

Nineteenth Delegated Legislation Committee

Tuesday 8 October 2019

[PHILIP DAVIES *in the Chair*]

Draft European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) (Amendment) Regulations 2019

8.55 am

The Parliamentary Secretary, Cabinet Office (Kevin Foster): I beg to move,

That the Committee has considered the draft European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) (Amendment) Regulations 2019.

It is a pleasure to serve under your chairmanship, Mr Davies. The draft regulations make sensible provision to ensure that, following our participation in the European parliamentary elections earlier this year, the administrative processes necessary after the poll can be carried out and completed. One example is the requirement for relevant electoral officers to store ballot papers and other election documents for 12 months after the poll.

The proposed change will provide for legislation governing European parliamentary elections to remain in place until 31 December 2020, rather than being repealed on exit day, as an earlier statutory instrument—the European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018—provides. For clarity, the draft regulations will apply both to the United Kingdom and to Gibraltar.

Under the 2018 regulations, the legislation relating to European elections will be repealed on exit day, set at 31 October 2019. However, it is necessary for that legislation to stay in place to ensure that we can complete all the poll processes. I have already mentioned ballot papers, but the legislation also covers matters that the Electoral Commission may wish to investigate and the ability of political parties to inspect and obtain the marked register for the next 12 months. Importantly, there are also provisions concerning payment to returning officers for the costs of running the poll. If those provisions were no longer in force, the Government would no longer have the legal authority to reimburse returning officers, so the costs incurred in running the election would end up falling on the local authority concerned, which I am sure the Committee agrees would not be appropriate.

The 2018 regulations include provisions that are not linked solely to the holding of European parliamentary elections, but our approach has been to leave all those provisions on the statute book for a limited period because we believe that keeping the whole of the legislation in force has the benefit of being clear and making it simple for electoral administrators to understand and implement. It also minimises the risk of any adverse unintended consequences. However, I confirm that once we have left the EU, the UK will no longer have any Members of the European Parliament or take part in

European parliamentary elections, whether scheduled or by-elections, as the EU law obligation to do so will have fallen away. The draft regulations will not change that position.

Mr Mark Harper (Forest of Dean) (Con): Having looked carefully at the explanatory notes, I cannot see anything that needs to remain in force for more than 12 months from the date of the poll. Will the Minister explain why the regulations are remaining in force until the end of next year, rather than just a year after the poll?

Secondly, the Minister said that certain things in the regulations are not specifically connected to the European elections. Could he set out their scope, not in detail but briefly, just so that people can work out that there is no funny business going on and that nothing is being smuggled in under cover?

Kevin Foster: There is no funny business being smuggled in. A report by the Joint Committee on Statutory Instruments covers some of the areas that my right hon. Friend may wish to look at, but there is certainly no funny business being smuggled in. However, it was felt easier to retain the whole piece of legislation, rather than leaving electoral administrators to satisfy themselves which parts of it are still in place.

Why are we retaining the legislation until the end of next year, rather than for just a year? As my right hon. Friend will be aware, if the law were quite tight about finishing off within the year, it would effectively bring to an end any investigation that had started just before the year deadline. There are also issues relating to payments to returning officers that might take slightly longer than a year to resolve if there were a dispute. We believe that, by 31 December next year, all processes should have been concluded, allowing some time for challenge or even, perhaps, for a brief extension, which could be granted by a court. At the moment, we are not aware of any processes that are there. However, there would be a final deadline of a year for those. It therefore makes sense to retain these provisions slightly beyond the end of the strict year of legal limitation.

It is possible, for example, that a police investigation started shortly before the year's deadline could apply to a magistrates court to extend that deadline. Setting the deadline at a year would effectively bring a statutory bar into concluding that process. If we were still, for example, debating a payment amount with a local authority—or returning officer, effectively—we would not be able lawfully to make the payment if the legislation had been repealed. We believe that 31 December next year gives not only the year but more time to resolve any outstanding issues, and it is a clear and understandable date for repeal; the legislation will be enforced through 2020, but will then be repealed on 31 December 2020, bringing clarity to the process.

It is probably worth saying that the Cabinet Office has engaged on the proposed change with the Electoral Commission, representatives of the Association of Electoral Administrators, the Electoral Management Board for Scotland, the Society of Local Authority Chief Executives and Senior Managers, the Wales Electoral Coordination Board, the devolved Administrations in Scotland, Wales and Northern Ireland and the Government of Gibraltar.

The Electoral Commission and other bodies agree with the Government's approach in the instrument and consider it sensible, given that the UK took part in the European parliamentary elections in May 2019. We have also kept the parliamentary parties panel informed of the position with the instrument. I therefore commend the instrument to the Committee.

9.2 am

Christian Matheson (City of Chester) (Lab): May I say what a great pleasure it is to once again serve under your chairmanship, Mr Davies? This statutory instrument is a result of the Government's mishandling of the Brexit negotiations. They attempted to push an unacceptable Brexit deal through the House on three separate occasions, meaning that we were forced to take part in European elections at short notice and at a time of political turmoil.

The Government are now required to extend elements required for the European Parliament's post-election processes, which relate to storing documents, filing spending returns and investigating potential electoral offences. We do not oppose these necessary provisions, but it is crucial that the Government recognise that their chaotic mishandling of elections cannot continue. The integrity of our electoral system is paramount to the strength of our democracy, yet the Government continue to put our system at risk.

The Government's attempt to push through a half-baked Brexit deal, without compromise, caused havoc on the country. The former Prime Minister's grandstanding with the public ran the clock down while the Government refused to entertain the idea that we would partake in European elections, leaving electoral administrators tasked with delivering a national poll at extremely short notice, to ensure that eligible electors could exercise their democratic right to vote. Once again I pay tribute to those administrators in local authorities up and down the country who managed to achieve that, despite difficult timescales. However, the Government failed to deliver.

On polling day, many EU citizens living in the UK found that they were unable to vote because they had not completed a second piece of paperwork transferring their voting rights from their home member state to the UK. The Government are solely to blame for this chaos, having ignored the advice of the Electoral Commission to streamline the two-step registration process like other European countries did after the previous set of European elections.

Labour repeatedly warned the Government that EU nationals were not given enough time and notice to complete the necessary paperwork because of the short timeframe within which the election was called. However, the Government refused to listen, and their response was to tell EU citizens to vote in their own country; of course, for many EU citizens, the United Kingdom is their own country, having lived here for several decades in some cases. Not only did that add to the anger and sense of exclusion that many EU citizen residents of the UK felt but the Government were asking people to register to vote in a country where they might not have lived for decades and where voting registration might have already closed. This is not a Government who respect electoral integrity. This is a Government committed to power by any means, which means discarding voters who are unlikely to vote Conservative.

The statutory instrument claims to be about ensuring the integrity of the electoral system. In the explanatory documents that accompany the SI, the Government talk about extending post-election processes to uphold electoral integrity, but they have not scratched the surface when it comes to safeguarding the integrity of the electoral system.

Electoral integrity is not just about fulfilling administrative processes and investigating potential breaches of the law, which the Minister spoke about during one of his explanations to the right hon. Member for Forest of Dean; it is about ensuring that every eligible person is able to vote. However, we know that the Government have engaged in voter suppression. Perhaps they believe that those struggling at the margins of society are less likely to register to vote, and if they did vote, would be less likely to vote for a Government whose austerity policies have had such a damaging effect on the public services that such people rely on more than most, cutting welfare benefits to the most vulnerable in our society and failing to properly invest in our NHS.

The Government have no interest in increasing voter registration because they believe it would not be politically beneficial. Similarly, they had no interest in ensuring that EU citizens were able to vote in the European Parliament elections. The Government announced only on 7 May that the UK would be taking part in the European elections, yet in order to take part in those elections, EU citizens needed to have returned their forms to their local authority by 7 May, declaring that they would not vote in another EU member state. Many people said that they were not sent the form by their local authority and received it just days before the deadline, meaning that councils then failed to process the forms on time. Others said that they were unaware of the process altogether.

The Government made no effort whatever to educate, inform or prepare eligible voters to register, because by admitting that we were going to have to take part in the European elections the Government would have offended a large part of their core support, whose voters we then saw defect to the Brexit Party Ltd. This comes at a time when improving voter registration is more important than ever. A new study published last week by the Electoral Commission shows that up to 9.4 million people are not correctly registered to vote—an increase of 1 million voters since the Commission's previous estimate. EU citizens entitled to vote in the UK were disenfranchised as a result of the Government's failure to reach a satisfactory Brexit deal—just one incident in a long line of repressive measures undertaken by this Government.

On closer reading of the explanatory documents for this SI, there is a reference to the Government

“continuing to work with the Law Commissions, as well as other stakeholders such as the Electoral Commission, to consider ways to streamline and clarify our electoral system in order to make elections easier to administer and therefore more resilient to errors or fraud.”

What progress have the Government made in those discussions and what plans do the Government have to enact the Law Commission's recommendations, because at the moment, we cannot find any evidence of progress. It is widely accepted that the laws setting out how UK elections are run and regulated are not fit for the modern age—the digital age, the age of social media—with some provisions dating back to the 19th century.

[*Christian Matheson*]

We on the Opposition Benches strongly agree with the Law Commission that the current laws governing elections should be rationalised into a single, consistent legislative framework to govern all elections, but it seems that the Government have not yet responded to that important body of work. Perhaps the Minister might clarify that.

Although we accept the reasonable and necessary provisions in today's statutory instrument, we do not accept the Government's mishandling of the European elections, done for their own narrow political purposes and certainly not for the good of the United Kingdom.

9.8 am

David Linden (Glasgow East) (SNP): It is a pleasure to serve under your chairmanship, Mr Davies. Sadly, it does not give me pleasure to be debating this particular statutory instrument. On the walk in this morning, I was reminded of a tweet from the Better Together campaign in 2014 that said,

"What is process for removing our EU citizenship? Voting yes", yet today we find ourselves debating another exiting the European Union statutory instrument. How things have changed over the past five years!

I offer the Committee its regular reminder that Scotland did not vote for this. In the 2016 referendum, we voted to remain a part of the European Union, but once again we find ourselves being dragged out by this British Government. As the hon. Member for City of Chester said, we were told that we would not be having European elections in 2019, yet of course we had European elections because the Government messed things up. I suspect that this week, we will see them mess things up once again when the Prime Minister's proposal to Michel Barnier is rejected.

When we talk about European elections, we hear these typical arguments from the Conservative Government or Conservative MPs about unelected MEPs and bureaucrats in Brussels. I remind them that in European elections, we directly elect Members of the European Parliament, yet in this place we have the House of Lords, which none of us has elected. In this Committee Room, albeit less frequently now, we also debate the Parliamentary Constituencies (Amendment) Bill, whereby we are trying to prevent the Government from reducing the number of MPs from 650 to 600. While they are busy putting through legislation like this and saying, "We're not taking part in the European elections, because all these powers are coming back to the UK Parliament," the Government are simultaneously trying to reduce the number of MPs in the House of Commons to scrutinise the Government.

In 2019, Scotland elected 50% of its MEPs from the SNP. I end with a prediction that, come the next round of European elections, Scotland will once again send Members to the European Parliament—but this time as an independent state within the European Union.

9.10 am

Kevin Foster: It is always interesting to be in a Committee where hon. Members make such strong speeches condemning the Government, but then say, "Actually, we're going to vote for what you propose." There is always a slight irony in that. I have to say that the comments of the hon. Member for Glasgow East came as no great surprise, although at least his party has been consistent and coherent in what it argues for on the issue.

I do not intend to delay the Committee unduly by responding to all the points made by the hon. Member for City of Chester. I am sure that, like me, he is looking forward to seeing the new deal that the Prime Minister will secure and getting into the Lobby to support it. There was a slight irony in his comment that failure to achieve a Brexit deal meant that EU citizens could not vote in European elections; if a Brexit deal had been achieved, we would not have had European elections, so no one would have voted in them. That was the Government's original goal.

Let me address some of the hon. Gentleman's more serious points. We expect the Law Commission's final report in the early part of next year. It will set out the details and announce our intentions in the usual way; it is a very detailed piece of work, as he will realise, given the nature of the law. With any change to electoral law, it is important that we get it right rather than rushing it. We need to ensure that it is immune from certain legal challenges and that it is a robust piece of legislation, but is not so complex that it makes it difficult for people to engage in our democracy. Not every candidate for election—I am thinking particularly of independent candidates in parish and local elections—would benefit from or should have to obtain detailed legal advice merely to stand to represent their local community. The Government will carefully consider the Law Commission's report, as I am sure Parliament will in due course.

To modernise our election law, we have already committed to bringing in a digital imprint regime. Once the technical work is completed, we will look to bring it forward. We have also committed to a consultation later this year that will focus on the rules on election spending, which I have discussed several times in the main Chamber. It will be open to all feedback, not just from Opposition parties but from stakeholders in society, about how we can tackle the challenges that a modern digital campaigning landscape presents to elections and ensure that our rules on who can fund and finance elections are modern and up to date.

I welcome the outbreak of consensus about the reasons for the draft regulations. I commend them to the Committee.

Question put and agreed to.

9.13 am

Committee rose.

