

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT LOCAL ELECTIONS (NORTHERN  
IRELAND) (AMENDMENT) ORDER 2024

DRAFT REPRESENTATION OF THE PEOPLE  
(POSTAL VOTE HANDLING ETC.) (NORTHERN  
IRELAND) (AMENDMENT) REGULATIONS 2024

*Wednesday 21 February 2024*

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**The Committee consisted of the following Members:**

*Chair:* JAMES GRAY

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|---|---|
| † Anderson, Fleur ( <i>Putney</i> ) (Lab)                               | † Doyle-Price, Dame Jackie ( <i>Thurrock</i> ) (Con)        |
| † Baker, Mr Steve ( <i>Minister of State, Northern Ireland Office</i> ) | Duffield, Rosie ( <i>Canterbury</i> ) (Lab)                 |
| † Baron, Mr John ( <i>Basildon and Billericay</i> ) (Con)               | † Fletcher, Nick ( <i>Don Valley</i> ) (Con)                |
| † Bell, Aaron ( <i>Newcastle-under-Lyme</i> ) (Con)                     | † Grant, Mrs Helen ( <i>Maidstone and The Weald</i> ) (Con) |
| † Bradshaw, Mr Ben ( <i>Exeter</i> ) (Lab)                              | Higginbotham, Antony ( <i>Burnley</i> ) (Con)               |
| † Byrne, Ian ( <i>Liverpool, West Derby</i> ) (Lab)                     | † Jenkinson, Mark ( <i>Workington</i> ) (Con)               |
| † Carden, Dan ( <i>Liverpool, Walton</i> ) (Lab)                        | Loughton, Tim ( <i>East Worthing and Shoreham</i> ) (Con)   |
| † Clarkson, Chris ( <i>Heywood and Middleton</i> ) (Con)                | Jonathan Finlay, <i>Committee Clerk</i>                     |
| † Creasy, Stella ( <i>Walthamstow</i> ) (Lab/Co-op)                     |   |
| † Dixon, Samantha ( <i>City of Chester</i> ) (Lab)                      | † <b>attended the Committee</b>                             |

## Fourth Delegated Legislation Committee

Wednesday 21 February 2024

[JAMES GRAY *in the Chair*]

### Draft Local Elections (Northern Ireland) (Amendment) Order 2024

9.25 am

**The Minister of State, Northern Ireland Office (Mr Steve Baker):** I beg to move,

That the Committee has considered the Draft Local Elections (Northern Ireland) (Amendment) Order 2024.

**The Chair:** With this it will be convenient to consider the draft Representation of the People (Postal Vote Handling etc.) (Northern Ireland) Regulations 2024.

**Mr Baker:** I am glad to serve under your chairmanship, Mr Gray, and I am grateful to all members of the Committee for being here this morning to consider these substantial and important draft statutory instruments. This Government are committed to protecting the integrity of our democratic process, and we continue to deliver on that commitment by introducing measures included in our manifesto to prevent postal vote harvesting. That is the practice of third parties collecting the votes of large numbers of postal voters.

The Elections Act 2022 included a number of changes to ensure that UK elections remain secure, fair and modern. The statutory instruments, which I am pleased to bring before the Committee, flow directly from that Act. One instrument applies the measures for parliamentary and Assembly elections in Northern Ireland, and the second instrument mirrors those measures for local elections in Northern Ireland. Equivalent legislation that will bring the changes into force for Great Britain has already been passed by Parliament. Taken together, the instruments and the legislation for GB provide a package of measures covering non-devolved elections in GB and Northern Ireland and will ensure that the absent voting system in Northern Ireland benefits from the same protections as elsewhere in the UK. If approved, the instruments will ensure that the changes will come into force at the same time for both GB and Northern Ireland.

The measures contained in the instruments before us set a limit on how many postal votes any one individual can hand in directly to the returning officer. That implements recommendations set out in the report on electoral fraud published in 2016 by Lord Pickles, which was designed to improve the security of absent voting and make it less vulnerable to potential fraud. The measures also complement other provisions for Northern Ireland in the Elections Act to protect the integrity of the absent vote process. They include a ban on political campaigners handling postal voting documents issued to another person and measures ensuring the secrecy of absent voting through the extension of secrecy provisions. The provisions apply to elections on or after 2 May 2024. One of the instruments before us contains some technical amendments relating to the changes to EU voting and candidacy rights, which I will touch on briefly later.

I come on to the limit on the handling of postal votes of other persons. The instruments set out that an individual, in addition to their own postal vote, will be able to hand in the postal votes of up to five other electors to the returning officer. In Northern Ireland, postal votes can be handed in to the chief electoral officer's staff at the electoral office. The chief electoral officer is the returning officer for all 18 constituencies in Northern Ireland. Unlike in GB, where postal votes may be returned to the polling station, in Northern Ireland, due to additional security checks, handing in postal votes at polling stations has never been permitted. The ban on handing in at Northern Ireland polling stations is not changed in any way by these measures.

Currently, there are no restrictions on who may hand in postal votes or how many may be handed in by any single person. There is also no record of who has handed in postal votes. That situation creates opportunities for the integrity of postal voting to be undermined by unscrupulous individuals. We are determined to deliver the manifesto commitment to tackle the harvesting or collection of votes in that way. Even if their actions are legitimate, people seen handing in large numbers of postal votes create the perception and suspicion of impropriety, damaging public confidence in the electoral system. That is particularly true in Northern Ireland.

The instruments aim to strike the balance between the security and integrity of the process and ensuring that the electoral process is accessible. Under the regulations and order, a person will be able to hand in their own postal vote and the postal votes of up to five other people, including any for whom they are acting as proxy. We consider that to be a reasonable limit that will support the integrity of postal voting. A person handing in postal votes will be required to complete a form setting out information, including their name and address, the number of persons whose postal votes they are handing in and the reason for that. If an individual hands in postal votes in excess of the limit, they will be rejected. Any postal votes that have been left behind in the electoral office without an accompanying form, or those pushed under the front door out of hours, will not be counted, as they will not have been returned in accordance with these requirements.

These instruments will also update all relevant prescribed forms to make sure the new limits and procedures are set out clearly for electors. That information should help electors to plan accordingly and return their postal votes via post where possible. If they are handing them in, they will know the permitted number they can submit.

After the poll, the chief electoral officer will put together a list of postal ballot papers that have been rejected because the handing-in limit was exceeded and, where possible, will write to those whose postal votes have been rejected to notify them and give the reason why. That will ensure postal voters are informed of the rejection of their postal vote and can, if necessary, act to avoid it at future polls.

These instruments make provision for the storage and destruction of accepted and rejected postal voting documents, the return of postal voting document forms and the list of rejected or left-behind postal votes. In line with the arrangements for other electoral documents, they will be destroyed one year after the poll. The new postal vote handing-in requirements will, as with the

changes banning political campaigners from handling postal votes and the extension of secrecy provisions, apply to elections on or after 2 May 2024.

Turning to the technical amendments relating to the changes to EU voting and candidacy rights, the draft Representation of the People (Postal Vote Handling etc.) (Northern Ireland) (Amendment) Regulations 2024 make some small changes in relation to EU voting and candidacy rights. The Elections Act 2022 amended the voting and candidacy rights of EU citizens to reflect the UK's new relationship with the EU. The Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023 amended existing legislation to implement the changes in the Elections Act.

The 2023 regulations provided for a one-off review process so that EU citizens on the register can be reviewed by the chief electoral officer and removed from the register if no longer eligible under the amended franchise. The regulations before the Committee amend the 2023 regulations so that, where the eligibility of EU citizens to remain on the register has been reviewed, duplicate notices do not have to be issued. Without this amendment, the chief electoral officer would be required to send a notice under existing review procedures and a notice under the new one-off process when removing an EU citizen. Some minor technical amendments are also made to reflect the new franchise.

Additionally, these regulations make transitional provision to ensure that candidates and other registered EU citizens remain eligible to stand and hold office in elections that might need to be re-run on or after 7 May 2024, the date on which the changes to EU voting and candidacy rights otherwise come into effect.

Having set out the detail of these statutory instruments, I hope the Committee will appreciate that they have been carefully designed and well considered to reduce the opportunities for individuals to exploit the process and steal the votes of others. I am open to questions. I am proud to bring these instruments forward, and I commend them to the Committee.

9.34 am

**Fleur Anderson** (Putney) (Lab): It is a pleasure to serve under your chairmanship, Mr Gray.

The statutory instruments would bring about changes to postal and proxy voting in Northern Ireland and to EU citizens' voting and candidacy rights. As elected Members of this House we should support all aims to make our elections as free and fair as possible and not to allow for any fraud at all. I think about why I got involved in politics, and why I stood to be a local councillor and an MP: it was because I wanted to represent my community, and I know every vote matters.

The Minister will be pleased to hear that we do not seek to re-fight the battles that took place over aspects of these regulations during the passage of the Elections Act 2022—I was on the Bill Committee and part of those discussions—and we do not intend to oppose these measures. However, I would still like him to consider what some of the serious potential unintended consequences could be if these regulations are not implemented with sufficient attention. First, I should make it very clear that for many years the Labour party has been signed up to the Electoral Commission's code of conduct for campaigners, which bans campaigners from handling

completed postal ballots. Our internal guidance also states clearly that under no circumstances should campaigners handle completed postal ballots, unless electors have absolutely nobody else to return them for them.

I remain concerned about the definition of political campaigners. In my constituency party, we have a thousand Labour members. During elections, many of them lent a helping hand by putting posters in their windows, by delivering leaflets on their block or road, or even just by commenting online. Some join the Labour party, as with every other party, and maybe do no more than that. Others do not join a party, but may still get involved in political activity at election time. These simple acts may be enough to draw them into the definition of a political campaigner.

A lack of clarity may have a chilling effect. If someone knows they are going to be handing in a postal vote, maybe further down the line, that could prevent them from getting involved in political activity. It may have unintended consequences for both sides. It is easy to imagine a party member in Northern Ireland who is inactive most of the time but willing to help in a small way during an election being caught by, or not being clear on, these regulations because they want to hand in a postal vote for a sick housemate or partner.

I am not sure how far the regulations draw a distinction between a political campaigner with a rosette who knocks on doors with a group of other people who are campaigning politically and someone who may happen to be an ordinary party member, or not even a party member, who is doing something political at an election time in a personal capacity. There may be times when it is difficult for electoral officers to adjudicate on this. What will the definition of a political campaigner be for the purposes of enabling electoral officers to adjudicate? Can the Minister outline what safeguards are in place to ensure that that would not be the case, and what efforts are being made to ensure that legitimate voters do not lose their voice because of these regulations?

The pressure on local authorities is significant. We have stretched electoral administrators up and down the country, who are getting their heads around the changes that the Government are making—we pointed that out several times in the Bill Committee—and sometimes rectifying errors along the way. Will these electoral officers be further resourced in Northern Ireland? Will they be strengthened to deal with the impacts and changes that have been outlined?

I would also like to know what will happen about communications and the postal vote packs being dropped through council letter boxes. The Minister outlined clearly that postal votes dropped through electoral offices without an accompanying form will be discarded or left behind, but will that be very clearly communicated to the electorate so that they will not be told afterwards that their vote was not counted? They may be under the impression that their vote would have been counted because they have gone to the office and dropped in the form. I hope that the Minister agrees that the right to participation in the democratic process requires a bit more careful planning. Maybe he can assure us of that, either in this Committee or afterwards. Though these layers may have security advantages, they risk overloading election officers who are already stretched by changes elsewhere in the Bill. I look forward to the Minister's response.

9.38 am

**The Minister of State, Northern Ireland Office (Mr Steve Baker):** I am most grateful to the hon. Lady for her speech. We all completely share her commitment to free and fair elections and believe that every vote matters. That is certainly something that we can put on the record together. I had occasion once to report one of my own candidates to the police, and I would gently say to police forces that every vote does matter and that it is a serious matter if a vote is undermined or, in that case, stolen from a woman. But that is another story for another day.

I had the first Adjournment debate of this Parliament on these matters and, if colleagues are struggling to sleep, perhaps they might refer back to it. Let me turn very clearly to what the hon. Lady has asked me. First, I would like to give her a full answer on the issue of the definition of a party campaigner. The provisions for Northern Ireland and the definition of a political campaigner for the purpose of the new postal vote handling offence, and the exemptions that apply to that offence, are set out in section 4(2) of the Elections Act 2022. The Electoral Commission issues guidance to candidates at elections as a caution, and we expect that it will cover the new postal vote handling and handing-in requirements. We also expect that political parties will bring the new requirements to the attention of their members. We intend the changes to be communicated to electors directly through forms, including the declaration of identity form and poll cards, and through information made available to electors via the electoral office website and gov.uk.

Since the hon. Lady pressed me on the definition of a campaigner, broadly speaking, the rules set out in the legislation are that a

“person is a political campaigner in respect of a relevant election” if at that election they are a candidate, an election agent or a sub-agent, if they are “employed or engaged” by a candidate for the purposes of assisting the candidate’s activity, or—this is the point that the hon. Lady will be most concerned about—if they are a member of a “registered political party” and conducting activity “designed to promote a particular outcome at the election”.

Of course, that will catch all our activists. They need to know that if they are a member—that is a crucial point—of a registered political party and conducting such activity, then they are a campaigner. Next, they are a political campaigner if they are

“employed or engaged by a registered political party in connection with the party’s political activities”,

or if they are “employed or engaged” by a person within any of the previous categories

“to promote a particular outcome at the election”.

That applies to anyone whom such a person employs or engages to help promote such an outcome. That is the definition. Some of it is quite a mouthful. We will need to ensure that as political parties, including in Northern Ireland, we are clear with our members about where the regulations apply to them.

The hon. Lady asked about the danger of losing votes. It is worth saying that this is about the handing in of postal votes. Normally, all of us would expect postal votes to be posted, but this is about the handing in. We think that the limit is reasonable. We are clear that it will be necessary to say, for example, on the front door of the electoral office that people must not post the votes through the letterbox themselves or put them under the door, and they will not be counted if they do, so that is covered.

On resourcing of electoral officers, I do not have the figures with me today, but we will stay in frequent contact with the relevant authorities in relation to their resourcing. The hon. Lady raised a good point. I think I have largely covered the point about communications on packs and the Electoral Commission. We need to ensure that the text is right, as set out in the instrument. We need to ensure that the Electoral Commission communicates with voters, and that the packs themselves are clear about what is required of people.

I hope that, taken together, all these things will ensure the integrity of the electoral process. I hope that the hon. Lady is satisfied. She is right to be concerned about ensuring that everyone gets their vote. We share that concern, and as political parties, I am sure that we will all do our utmost to ensure that everyone understands how this should work and gets their vote counted fairly.

*Question put and agreed to.*

#### **DRAFT REPRESENTATION OF THE PEOPLE (POSTAL VOTE HANDLING ETC.) (NORTHERN IRELAND) (AMENDMENT) REGULATIONS 2024**

*Resolved,*

That the Committee has considered the draft Representation of the People (Postal Vote Handling etc.) (Northern Ireland) (Amendment) Regulations 2024.—(*Mr Baker.*)

9.43 am

*Committee rose.*



