STATUTORY INSTRUMENTS

2016 No. 300

POLICE, ENGLAND AND WALES

The Police and Crime Commissioner Elections (Amendment) Order 2016

Made - - - - 3rd March 2016

Coming into force in accordance with article 1(2)

In accordance with section 7(1) and (2)(hb) and (hc) of the Political Parties, Elections and Referendums Act 2000(**1**), the Chancellor of the Duchy of Lancaster has consulted the Electoral Commission before making this Order.

And, in accordance with section 154(2)(a) and (b) of the Police Reform and Social Responsibility Act 2011 ("2011 Act")(**2**), a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Accordingly, the Chancellor of the Duchy of Lancaster, in exercise of the powers conferred by sections 54(2)(**3**), 58 (as extended by section 26(3) of the Welsh Language Act 1993(**4**)) and 154(5) of the 2011 Act(**5**) makes the following Order:

(**1**) 2000 c. 41; paragraphs (hb) and (hc) of subsection (2) were inserted by paragraph 11 of Schedule 10 to the Police Reform and Social Responsibility Act 2011 (c. 13).

(**2**) 2011 c. 13.

(**3**) By virtue of section 105 of the Deregulation Act 2015 (c. 20), the power to make regulations can be exercised by order (and vice-versa). Section 54(2) was amended by S.I. 2015/1376 (whereby functions of the Secretary of State were transferred so as to be exercised concurrently with the Chancellor of the Duchy of Lancaster).

(**4**) 1993 c. 38.

(**5**) Functions originally conferred on the Secretary of State by sections 58 and 154 were transferred to enable them to be exercised concurrently with the Lord President of the Council by S.I. 2014/268. By virtue of S.I. 2015/1376 those functions exercisable by the Lord President of the Council concurrently with the Secretary of State in section 58(1) and section 154(1) and (5) ceased to be exercisable by the Lord President of the Council and became exercisable (concurrently with the Secretary of State) by the Chancellor of the Duchy of Lancaster. The functions in section 58(5)(a), (b) and (d) conferred on the Secretary of State may now also, by virtue of S.I. 2015/1526, be exercisable concurrently with the Chancellor of the Duchy of Lancaster so far as they relate to an election of a police and crime commissioner the date of the poll for which is on or after 1st May 2016.

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Police and Crime Commissioner Elections (Amendment) Order 2016.

(2) It comes into force on the day after the day on which it is made.

(3) Articles 2 to 12 apply to an election of a police and crime commissioner the date of the poll for which is on or after 1st May 2016.

(4) In this Order—

"2012 Order" means the Police and Crime Commissioner Elections Order 2012(**6**);

"2012 Regulations" means the Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012(**7**).

PART 2

Combination of polls at police and crime commissioner and National Assembly for Wales elections

Amendment of the 2012 Order

2. The 2012 Order is amended in accordance with articles 3 to 6.

Interpretation

3.—(1) Amend article 2 (interpretation) as follows.

(2) In paragraph (1)—

(a) in the appropriate places insert—

""the 2007 Order" means the National Assembly for Wales (Representation of the People) Order 2007(**8**);",

""the Assembly" means the National Assembly for Wales;",

""Assembly election" means an election to return a member of the Assembly for an Assembly constituency or an election to return members of the Assembly for an Assembly electoral region (or both);";

(b) in the definition of "local returning officer", at the end insert "(but see paragraph (2B)(b))"; and

(c) in the definition of "voting area" for "paragraph (2)" substitute "paragraph (2) or, where it applies, paragraph (2B)".

(3) In paragraph (2), at the beginning, insert "Subject to paragraphs (2A) and (2B)(a),".

(4) After paragraph (2) insert—

(**6**) S.I. 2012/1917 as amended by S.I. 2013/388; S.I. 2013/591; S.I. 2014/921; S.I. 2014/1963; S.I. 2015/643; S.I. 2015/664; and S.I. 2015/1526.
(**7**) S.I. 2012/1918.
(**8**) S.I. 2007/236 as amended by S.I. 2009/1182; S.I. 2010/1142; S.I. 2010/2931; S.I. 2011/1441; S.I. 2011/2085; S.I. 2012/1479; S.I. 2013/388; S.I. 2013/591; S.I. 2015/664; S.I. 2016/272; and section 3 of the Wales Act 2014 (c. 29).

"(2A) Paragraph (2B) applies where the poll at a PCC election is required to be taken together with the poll at an Assembly election by virtue of article 16A(1) of the 2007 Order.

(2B) At an election mentioned in paragraph (2A)—

(a) an Assembly constituency as it exists on the day of the PCC election (and not a county or county borough) is a voting area for the purposes of this Order;

(b) a reference in this Order to the local returning officer for a voting area is a reference to the local returning officer exercising functions in relation to that voting area pursuant to regulation 2A of the Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012(**9**); and

(c) the definition of "relevant registration officer" has effect as if at the end there were inserted "(but where a voting area comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered)".

(2C) In paragraph (2B)(a) "Assembly constituency" means an Assembly constituency as provided by section 2 of the Government of Wales Act 2006 (Assembly constituencies and electoral regions)(**10**).".

Combination of polls

4. After article 13 (combination of polls) insert—

"**Combination of polls: National Assembly for Wales**

13A. Where the poll at a PCC election is to be taken together with the poll at an Assembly election under article 16A of the 2007 Order(**11**), the modifications to the PCC elections rules set out in Part 3, and the forms in Part 4, of Schedule 4 have effect subject to the modifications and exceptions set out in Part 5 of that Schedule.".

Issue and receipt of postal ballot papers

5.—(1) Amend Schedule 2 (absent voting in PCC elections) as follows.

(2) In paragraph 29 (combination of polls)—

(a) in sub-paragraph (2), at the beginning insert "In sub-paragraph (1),"; and

(b) after sub-paragraph (2) insert—

"(3) Where the poll at a PCC election is to be taken together with the poll at an Assembly election under article 16A of the 2007 Order, the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.".

(3) In paragraph 59 (forwarding of documents), after sub-paragraph (2) insert—

"(2A) Where the poll at a PCC election is taken together with the poll at an Assembly election under article 16A of the 2007 Order, a separate statement in the form described in sub-paragraph (1)(b) must be completed for the PCC election.".

(**9**) Regulation 2A is inserted by article 9 of this Order.
(**10**) 2006 c. 32; section 2 has been amended by section 13 of the Parliamentary Voting Systems and Constituencies Act 2011 (c. 1).
(**11**) By virtue of article 16A of the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236) where the polls at a general election of the National Assembly for Wales and an ordinary election of police and crime commissioners are to be taken on the same day, they must be taken together. Article 16A is inserted by S.I. 2016/272.

Application of Part 3 of Schedule 4

6.—(1) Amend Schedule 4 (combination of polls)(**12**) as follows.

(2) In the shoulder reference, for "article 13" substitute "articles 13 and 13A".

(3) After Part 4 (forms referred to in Part 3 of Schedule 4) insert—

"PART 5

Application of Parts 3 and 4 to PCC elections combined with Assembly elections

Introduction

46.—(1) In the application of Part 3 to a combined election—

(a) a reference to a relevant election is to be construed as a reference to an Assembly election;

(b) a reference to a counting officer or a relevant referendum is to be disregarded; and

(c) a provision having effect only in relation to England is to be disregarded.

(2) In paragraph (1) the reference to a "combined election" is a reference to a PCC election taken together with an Assembly election.

Modification of paragraph 13 (interpretation)

47.—(1) In paragraph 13—

(a) for sub-paragraph (2) substitute—

"(2) In this Part of this Schedule and in any provisions of the PCC elections rules modified by this Part—

(a) "Assembly constituency" and "Assembly electoral region" mean an Assembly constituency or (as the case may be) electoral region as provided by section 2 of the Government of Wales Act 2006;

(b) "combined polls" means the polls to be taken together by virtue of article 16A of the 2007 Order; and

(c) a reference to the relevant returning officer is a reference to the returning officer exercising functions by virtue of paragraph 2 of Schedule 4 to the 2007 Order (as it applies to combined polls by virtue of paragraph 1 of Schedule 4A to that Order).";

(b) omit sub-paragraphs (3) and (4).

Modification of paragraphs 16 and 17 (corresponding number lists)

48.—(1) In paragraph 16, in paragraph (1) of inserted rule 19A (corresponding number lists: proceedings on issue and receipt of ballot papers combined) for "paragraph 29 of Schedule 2 to this Order and regulation 65 of the 2001 Regulations" substitute "paragraph 29(3) of Schedule 2 to this Order and paragraph 2 of Schedule 3 to the 2007 Order".

(2) In paragraph 17, in inserted paragraph (A1) of rule 20 (corresponding number lists: proceedings on issue and receipt of ballot papers not combined) for "paragraph 29 of

(**12**) Parts 3 and 4 of Schedule 4 have been amended by S.I. 2014/921.

Schedule 2 to this Order and regulation 65 of the 2001 Regulations" substitute "paragraph 29(3) of Schedule 2 to this Order and paragraph 2 of Schedule 3 to the 2007 Order".

Modification of paragraph 19 (notice of poll)

49. In paragraph 19, for inserted paragraph (3A) of rule 24 (notice of poll) substitute—

"(3A) A notice published under paragraph (3) must, in addition—

(a) state that the poll for the PCC election is to be taken together with the poll for the Assembly election;

(b) specify the Assembly constituency or electoral region for which the Assembly election is held;

(c) where polls for the elections are to be taken together in only part of the voting area, specify that part.".

Modification of paragraph 35 (correction of errors on day of the poll)

50. In paragraph 35—

(a) for inserted paragraph (2) of rule 45 (correction of errors on day of poll) substitute—

"(2) Where the poll at a PCC election is taken together with an Assembly election the same list may be used for each election and, where it is so used, an entry in that list is to be taken to mean that ballot papers were issued in respect of each election, unless the list identifies the election for which a ballot paper was issued.";

(b) omit paragraph (3)(**13**).

Modification of paragraph 42 (the first count)

51. In paragraph 42 (the first count), in inserted paragraph (1C) of rule 52 after "parliamentary constituency" insert "Assembly constituency,".

Countermand or abandonment of poll on death of candidate

52. After paragraph 44 (rule 66: delivery of documents) insert—

"**Countermand or abandonment of poll on death of candidate**

44A. In rule 69 (countermand or abandonment of poll on death of candidate) after paragraph (5) insert—

"(5A) Neither the countermand of the notice of the poll at the PCC election nor the direction that the poll be abandoned affects the poll at the Assembly election."""

Amendment of the 2012 Regulations

7. The 2012 Regulations are amended in accordance with articles 8 and 9.

Voting areas

8.—(1) Amend regulation 2 (interpretation) as follows.

(**13**) Paragraph (3) is inserted by article 12 of this Order.