STATUTORY INSTRUMENTS

2016 No. 272

CONSTITUTIONAL LAW
DEVOLUTION, WALES
REPRESENTATION OF THE PEOPLE

The National Assembly for Wales (Representation of the People) (Amendment) Order 2016

Made - - - - 3rd March 2016

Coming into force in accordance with article 1(2)

In accordance with section 7(1) and (2)(f) of the Political Parties, Elections and Referendums Act 2000(**1**), the Secretary of State has consulted with the Electoral Commission prior to this Order being made.

And, in accordance with section 8(2) and (3)(b) of that Act(**2**), the Secretary of State has acted on the recommendation of the Electoral Commission in limiting the expenses of candidates under section 13(2)(c) of the Government of Wales Act 2006 ("the 2006 Act")(**3**).

In accordance with section 13(7) of the 2006 Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State, in exercise of the powers conferred by sections 13(1), (2) and (4) and 157(2)(c) of the 2006 Act (as extended by section 26(3) of the Welsh Language Act 1993(**4**)), makes the following Order:

(**1**) 2000 c. 41; subsection (2)(f) was substituted by S.I. 2007/1388.
(**2**) Relevant amendments to subsection (3) were made by paragraph 59 of Schedule 10 to the 2006 Act. Other amendments have been made (some of which are not yet in force) to subsections (2) and (3) but they are not relevant to this Order. The Electoral Commission recommended, in their response to consultation on the draft of this Order, that the limits on expenses were increased at elections to the National Assembly for Wales in line with those that apply at elections to the Scottish Parliament.
(**3**) 2006 c. 32.
(**4**) 1993 c. 38.

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Representation of the People) (Amendment) Order 2016.

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

(3) Articles 2 to 20 apply only in respect of an election the poll for which is on or after 1st May 2016.

(4) In this Order, "the 2007 Order" means the National Assembly for Wales (Representation of the People) Order 2007(**5**).

Amendment of the 2007 Order

2. The 2007 Order is amended in accordance with articles 3 to 19.

PART 2

Combination of polls at Assembly and police and crime commissioner elections

Amendment of article 2 (interpretation)

3. In article 2(1) (interpretation), in the appropriate places insert—

""2011 Act" means the Police Reform and Social Responsibility Act 2011(**6**);";

""ordinary election of police and crime commissioners" has the meaning given by article 16A (combination of polls at police and crime commissioner elections)(**7**);";

""police area" means a police area in Wales listed in Schedule 1 to the Police Act 1996 (police areas in England and Wales)(**8**);";

""police and crime commissioner election" means an election under Chapter 6 of Part 1 of the 2011 Act;".

Combination of polls at Assembly and Police and Crime commissioner elections

4.—(1) After article 16 (combination of polls at Assembly and local government elections), insert —

"**Combination of polls at Assembly and police and crime commissioner elections**

16A.—(1) Where the polls at an Assembly general election and an ordinary election of police and crime commissioners are to be taken on the same date, they must be taken together.

(2) Where the polls at an Assembly election and a police and crime commissioner election for related areas are to be taken on the same date but are not required by paragraph (1) to

(**5**) S.I. 2007/236. This Order has been 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; and section 3 of the Wales Act 2014 (c. 29).
(**6**) 2011 c. 13.
(**7**) Article 16A is inserted by article 4 of this Order.
(**8**) 1996 c. 16.

be taken together, they may nevertheless be taken together if the returning officer for each election thinks fit.

(3) For the purposes of paragraph (2) two areas are related if one is coterminous with or situated wholly or partly within the other.

(4) Where the polls at any elections are combined under this article the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination is to be apportioned equally among the elections.

(5) Schedule 4A (which makes provision in connection with the combination of polls at Assembly and police and crime commissioner elections) has effect.

(6) In this article "ordinary election of police and crime commissioners" has the same meaning as in section 50 of the 2011 Act(**9**)."

(2) Schedule 1 (which inserts Schedule 4A into the 2007 Order to make provision for the combination of polls at Assembly elections and police and crime commissioner elections) has effect.

Amendment of Schedule 3 (issue and receipt of postal ballot papers)

5.—(1) Amend Schedule 3 (issue and receipt of postal ballot papers) as follows.

(2) In paragraph 2 (combination of polls), after "article 16(1) or (2)", insert "or (as the case may be) article 16A(1) or (2)".

(3) In paragraph 3 (form of postal voting statement), after "article 16(1) or (2)", in each place it occurs, insert "or (as the case may be) article 16A(1) or (2)".

(4) In paragraph 9(6) (procedure on issue of postal ballot paper), after "article 16(1) or (2)" insert "or (as the case may be) article 16A(1) or (2)".

(5) In paragraph 11(3) (envelopes), after "article 16(1) or (2)" insert "or (as the case may be) article 16A(1) or (2)".

(6) After paragraph 31(1) (forwarding of documents), insert—

"(1A) Where the poll at an Assembly election is to be taken together with the poll at a police and crime commissioner election under article 16A, a separate statement in the form described in sub-paragraph (1)(b) must be completed for the Assembly election.".

Amendment of Schedule 4 (combination of polls)

6. In the heading to Schedule 4 (combination of polls), at the end insert ": Assembly elections and local government elections".

PART 3

Other amendments

Article 2 (interpretation)

7. In article 2 (interpretation), in the definition of "valid postal voting statement" omit "22 or".

Registers of electors

8. Omit article 4 (registers of electors etc).

(**9**) Section 50 was amended by S.I. 2015/1526 (so as to enable the concurrent exercise of the Secretary of State's functions with the Chancellor of the Duchy of Lancaster).

Registration appeals

9. Omit article 5(7) (registration appeals)(**10**).

Manner of voting at Assembly elections

10. In article 7 (manner of voting), after paragraph (5) insert—

"(5A) In paragraph (5), the reference to a constable includes a person designated as a community support officer under section 38 of the Police Reform Act 2002 (police powers for civilian staff)(**11**).".

Returning officers' charges

11.—(1) In article 23(1) (payments by and to returning officer)(**12**), at the beginning insert "Subject to article 23A,".

(2) After article 23 insert—

"**Inadequate performance of returning officer: reduction of charges**

23A.—(1) This article applies to a service rendered by a returning officer for or in connection with an Assembly election which, in the opinion of the Electoral Commission, was inadequately performed.

(2) The Commission may recommend to the Welsh Ministers that the returning officer is entitled under article 23(1) to no more than a specified amount (which may be nil) in respect of that service.

(3) In making a recommendation under paragraph (2), the Commission must have regard to—

(a) any report prepared under section 5 of the 2000 Political Parties Act(**13**) on the administration of the Assembly election concerned,

(b) any assessments of the level of performance of the returning officer in relation to that election under section 9B(4) of that Act(**14**),

(c) any representations made to the Commission by the returning officer in respect of the performance of the service, and

(d) any other information relating to the performance of the service by the returning officer that has been provided to the Commission.

(4) Where the Commission makes a recommendation under paragraph (2), the returning officer is entitled under article 23(1) to no more than the amount (which may be nil) determined by the Welsh Ministers, having regard to the recommendation of the Commission.".

(3) In paragraph 3(1) of Schedule 4 (combination of polls: modification of provisions relating to expenses), after paragraph (a) insert—

(**10**) Article 5(7) applies CCR Order 45 (contained in Part 45 of Schedule 2 to S.I. 1998/3132) to registration appeals under the 2007 Order. Part 45 was revoked by S.I. 2007/2204.

(**11**) 2002 c. 30; relevant amendments to section 38 have been made by paragraphs 277 and 292 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) (which amended the heading and subsection (1)). Other amendments have been made to section 38 but they are not relevant to this Order.

(**12**) Certain functions conferred on the Assembly before the ordinary election in 2007 (including those in article 23) were transferred to the Welsh Ministers at the end of the "initial period" after that election by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). The initial period is defined in section 161(5) of that Act.

(**13**) 2000 c. 41; relevant amendments were made to section 5 (insertion of subsection (2A)) by section 28 of the Electoral Administration Act 2006 (c. 22) ("2006 Act") and further relevant amendments were made to subsection (2A) by S.I. 2007/1388.

(**14**) Section 9B was inserted by section 67 of the 2006 Act.

"(aa) in article 23A (inadequate performance of returning officer: reduction of charges);".

(4) In article 24 (detailed assessment of returning officer's account), omit paragraph (4)(**15**).

Timing of nomination of sub-agents

12. In article 38(3), for "second" substitute "fifth".

Limitation of candidates' expenses

13.—(1) Amend article 47(3) (constituency and individual candidates: limitation of election expenses) as follows.

(2) In sub-paragraph (a)(i)—

(a) omit "which is coterminous with a parliamentary constituency"(**16**);

(b) for "£7,150" substitute "£8,700"; and

(c) for "7p" substitute "9p".

(3) In sub-paragraph (a)(ii)—

(a) omit "which is coterminous with a parliamentary constituency";

(b) for "£7,150" substitute "£8,700"; and

(c) for "5p" substitute "6p".

Electronic communications

14. In article 144 (sending of applications and notices: electronic signatures and related certificates), in paragraphs (1) and (2) after "notice" insert "certificate,".

Amendment of Schedule 1 (absent voting at Assembly elections)

15.—(1) Amend Schedule 1 (absent voting at Assembly elections) as follows.

(2) After paragraph 2 (the personal identifiers record) insert—

"**Notification of rejected postal voting statement**

2A.—(1) Where an absent voter (whether an elector or a proxy) appears on the list created under paragraph 27(4) of Schedule 3 (list of rejected postal ballot papers)(**17**) then—

(a) the registration officer responsible for the personal identifiers record that contains information in respect of the absent voter must notify that person (and the elector if the absent voter is a proxy) that the ballot paper concerned was rejected because the returning officer was not satisfied that the postal voting statement was duly completed;

(b) the registration officer must send the notification within the period of three months beginning with the date of the poll at which the ballot paper was rejected; and

(**15**) This paragraph applies CCR Order 45 to detailed assessments of returning officer's accounts. CCR Order 45 has been revoked (see above).

(**16**) By virtue of section 2 of the Government of Wales Act 2006 (c. 32) Assembly constituencies are the constituencies specified in S.I. 2006/1041 as amended by S.I. 2008/1791 and an Order in Council under the Parliamentary Constituencies Act 1986 (c. 56) giving effect to an order under section 13(4) or (5) of the Parliamentary Voting Systems and Constituencies Act 2011 (c. 1) (such an order, S.I. 2011/2987, has been made). As a result of amendments made to S.I. 2006/1041 by S.I. 2011/2987 Assembly constituencies and Parliamentary constituencies are no longer coterminous. Assembly constituencies continue to be specified however by reference to whether they are county or borough constituencies.

(**17**) Sub-paragraphs (4) and (5) are inserted by article 16(9) of this Order.