



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

LOCAL GOVERNMENT AND REGENERATION COMMITTEE

Wednesday 25 January 2012

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LOCAL GOVERNMENT AND REGENERATION COMMITTEE
2nd Meeting 2012, Session 4

CONVENER

*Joe FitzPatrick (Dundee City West) (SNP)

DEPUTY CONVENER

*Kevin Stewart (Aberdeen Central) (SNP)

COMMITTEE MEMBERS

*Anne McTaggart (Glasgow) (Lab)

*Margaret Mitchell (Central Scotland) (Con)

*John Pentland (Motherwell and Wishaw) (Lab)

David Torrance (Kirkcaldy) (SNP)

*Bill Walker (Dunfermline) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Margaret Burgess (Cunninghame South) (SNP) (Committee Substitute)

Derek Mackay (Minister for Local Government and Planning)

CLERK TO THE COMMITTEE

Eugene Windsor

LOCATION

Committee Room 5

Scottish Parliament

Local Government and Regeneration Committee

Wednesday 25 January 2012

[The Convener *opened the meeting in private at 10:00*]

11:05

Meeting continued in public.

Subordinate Legislation

Local Electoral Administration (Scotland) Act 2011 (Consequential Amendments) Order 2012

The Convener (Joe FitzPatrick): Good morning and welcome to the second meeting in 2012 of the Local Government and Regeneration Committee. As usual, I ask everyone to ensure that they have switched off any mobile phones or electronic devices.

We have received apologies from David Torrance. I welcome Margaret Burgess, who is substituting for David today.

Under agenda item 2, we will take oral evidence from the Minister for Local Government and Planning, and Government officials, on an affirmative instrument: the Local Electoral Administration (Scotland) Act 2011 (Consequential Amendments) Order 2012. Members have a copy of the order and a paper setting out its purpose. I welcome the minister, Derek Mackay, and his team, who are Jaime Neal, Deborah Blair and Andrew Sinclair.

I ask the minister to make any opening remarks about the order.

The Minister for Local Government and Planning (Derek Mackay): As the committee will be aware, the Local Electoral Administration (Scotland) Act 2011 received royal assent on 20 April 2011 and commenced on 29 June 2011. The act established the electoral management board for Scotland on a statutory basis for its work in relation to local government elections in Scotland and extended the statutory remit of the Electoral Commission to cover local government elections in Scotland. The order that the committee is considering today is necessary to tidy up the legislation to take account of the changes that were introduced by the 2011 act.

As a result of those changes, the Electoral Commission's accredited observers scheme,

which is set out in sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000, now covers the Scottish local government elections. Prior to the 2011 act, a separate observers scheme applied to local government elections. It is therefore necessary to repeal section 66(1)(d) of the Representation of the People Act 1983, which refers to the previous scheme for observers at local government elections. That provision is no longer required.

Having repealed the provisions in the 1983 act on observers at local government elections, it is appropriate to repeal the relevant provisions of the Local Electoral Administration and Registration Services (Scotland) Act 2006, which inserted section 66(1)(d) into the 1983 act.

In addition, regulation 5, "Persons entitled to be present at proceedings on issue of postal ballot papers", and regulation 6, "Persons entitled to be present at proceedings on receipt of postal ballot papers" of the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 are amended to update references in those regulations in consequence of the Electoral Commission's role in dealing with observers. Finally, regulation 31(4) in regulation 4, "Forwarding of documents", has been amended to show that postal ballot paper returns should now be forwarded to the Electoral Commission rather than to Scottish ministers.

Did you get that? [*Laughter.*] In other words, the new arrangements for the Electoral Commission's observers scheme require a tidying up of existing legislation.

The Convener: Much of what is in the order is technical and is influenced by the Gould report. There are things that some of us had hoped might be in the order. At the last election, it was suggested that the alphabetisation of the ballot sheet caused an unfair advantage to those whose surnames were early in the alphabet and a disadvantage to those whose surnames were later in the alphabet. It was suggested that that could be solved using Robson rotation.

The other thing that is not included in the order is the extension of the franchise to 16 and 17-year-olds. Will you briefly outline the thinking behind the Government's decision not to put those two things into the order?

Derek Mackay: On the point about Robson rotation, there is evidence that the candidates who feature at the top of a ballot paper have an advantage over the candidates who feature at the bottom. With candidates of parties that field more than one candidate, that is certainly a factor in who is elected. Therefore, there is an issue. However, democracy is still served. A consultation on the issue found that, although it might be in the

parties' interests to change the system, it would not necessarily be in voters' interests. There is no appetite for radical change.

The matter is not closed and it could be considered in the future. However, as we are so close to the local government elections, to keep within the spirit of the Gould review, it would not be appropriate to insert a change. We recognise that there is an issue with alphabetical order, and it is for parties to consider their approach. However, the Government does not propose to change the system at this time. We will take further views on the issue for the next local government elections, which should be about five years away.

The Convener: What about the second part of my question?

Derek Mackay: If there are no further questions on the first part, I will continue.

The Convener: Sorry—Kevin Stewart wants to comment on that.

Kevin Stewart (Aberdeen Central) (SNP): I will start with Robson rotation. I am not a candidate in the forthcoming local government elections—although I was in the previous ones—but, if I had been, I might have thought about changing my name to Aaron Aardvark. I am glad that the minister has not closed the door to considering the issue in future, because it will probably rear its ugly head again after the elections.

On a technical point, what impact would a move to Robson rotation have on the counting machines that we use? Can they scan and recognise quickly a huge number of ballot papers that are all different? Would the use of Robson rotation hold up results?

Derek Mackay: I am sure that you get what you pay for and that whatever we procure by way of an electronic counting machine could cope with any legislative or ballot change that we propose. The system could be accommodated, although we would have to consider the contract with our supplier. That could be delivered and achieved under the procurement rules and it would not lead to confusion. The point is that the voters do not seem too fussed about Robson rotation. We still have a job of work to do to convince them about the single transferable vote system, which is why we have the voter education phase, which we discussed in Parliament last week.

The Convener: Does anybody else want to comment on Robson rotation before the minister answers the question about 16 and 17-year-olds?

Bill Walker (Dunfermline) (SNP): I think that I understand Robson rotation, but when I talked to people about the issue, one thing that I discovered was that they are used to looking at things

alphabetically. With a name like Walker, I am always up against it. There might be an issue within parties when they have two candidates. However, people are used to looking at things alphabetically. Will the minister comment on the fact that, typically, lists are alphabetical?

Derek Mackay: Yes, they are. We must not undermine the intellect of the Scottish people. They understand the system perfectly well and they know how to vote. There is no question but that they will look for the candidate whom they want to elect. However, there is a clear body of evidence that, as the ballot paper is currently designed, candidates who are named first have an advantage, especially when a party fields two candidates. That suggests that, on a party basis, the voters order the ballot paper in an almost numerical fashion. There is evidence of an issue but, ultimately, the candidates who are elected are those whom the electorate choose.

There are alternatives to Robson rotation. One is the option of a party slate, whereby the candidates are grouped together. So, Robson rotation is not the only game in town. However, as I say, we will consider that matter for the future.

The Convener: I ask the minister to comment on 16 and 17-year-olds.

11:15

Derek Mackay: The Government's position is that the franchise should be extended to 16 and 17-year-olds, which would be consistent with other elections and, dare I say it, proposed referenda. We have made that case to the United Kingdom Government, which has remained silent. We have requested that the power be transferred.

There seems to have been a misunderstanding in some parts of the UK Government that the Scottish Government has the power to extend the franchise. Again, that was debated in Parliament last week. We have power over only the administrative functions and not the legislative functions around the franchise.

We have made the Scottish Government's position clear. We want to be consistent and to give the vote to 16 and 17-year-olds. The UK Government has not responded positively and we will continue to make the case for that.

Kevin Stewart: It is quite appalling that some folk do not realise the restrictions on the powers that we have. Perhaps some education of folks elsewhere is as necessary as voter education might be on the single transferable vote.

Has there been any contact with organisations such as the votes at 16 coalition, which has been fed some misinformation about the powers that we have in the Parliament? It would be immensely

beneficial to get that organisation's views. Have you spoken to that coalition or do you intend to speak to it and other organisations in the future?

Derek Mackay: A large body of opinion supports votes for 16 and 17-year-olds. If the UK Government was taking us seriously, we could have a more fruitful dialogue.

My concern is that the UK Government is timing out the issue. It is unlikely to act in the spirit of Gould and have a change of heart to amend the Scotland Act 1998. I would not therefore want to approach the youth organisations with the view that we can extend the vote at this time when it looks increasingly likely that the UK Government is not listening to us and will not allow us to extend the franchise. If the UK Government runs it so close to the local government elections, it would be impossible to implement; if it is going to listen, it will have to do so now.

Kevin Stewart is absolutely right that further dialogue should take place between the Scottish Government and organisations that are campaigning for votes for 16 and 17-year-olds. It is not the 16 and 17-year-olds who are not listening; it is the UK Government.

Kevin Stewart: I am glad to hear the minister say that.

Perhaps I should declare that I have been asked to be a champion by the votes at 16 coalition. That has not yet been confirmed, but just in case there is any dubiety, I declare that interest.

The Convener: That is always wise.

Margaret Mitchell (Central Scotland) (Con): Will the minister elaborate on the inconsistencies in voting age to which he refers? As far as I am aware, the voting age is 18 throughout for all UK elections.

Derek Mackay: The position at the moment is that the voting age in the UK is 18. The consistency that the Scottish Government seeks is for 16 and 17-year-olds in Scotland to be permitted to vote in all elections in Scotland. We want the position to be consistent with Scottish Government policy. It is not for the Scottish Government to determine at what age people can vote in England and Wales.

Margaret Mitchell: If we are looking at consistency and what can be done at the ages of 16 and 17, is there not a built-in inconsistency in the Scottish Government wanting to delay until 21 the age at which young people can buy alcohol from off-licences and supermarkets, while advocating votes for 16 and 17-year-olds?

The Convener: That question goes well outwith the minister's remit. If we can find a way of tying a health issue into the Local Government and

Regeneration Committee, we can have the Minister for Public Health in sometime.

Margaret Mitchell: At the minister's discretion? What about the retail levy?

The Convener: That lies outwith the minister's remit and the remit of the business that is under consideration.

Margaret Mitchell: He chooses not to answer.

The Convener: I am ruling from the chair that it is not relevant.

As there are no further questions for the minister, we move to agenda item 3, which is the debate on the motion to approve the instrument on which we have just taken oral evidence. As no member wishes to debate the instrument, I invite the minister to move motion S4M-01687.

Motion moved,

That the Local Government and Regeneration Committee recommends that the Local Electoral Administration (Scotland) Act 2011 (Consequential Amendments) Order 2012 be approved.—[*Derek Mackay.*]

Motion agreed to.

The Convener: Thank you minister.

11:19

Meeting continued in private until 11:36.

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