

REGULATORY APPRAISAL

REPRESENTATION OF THE PEOPLE, WALES

THE NATIONAL ASSEMBLY FOR WALES (RETURNING OFFICERS' CHARGES) ORDER 2006

Purpose and intended effect of the measure

1. This Order relates to the Assembly's power to make an Order in preparation for the next Assembly elections in 2007. Part I and II of the Schedule sets a maximum level for charges, expenses and fees, which Returning Officers can recover from the National Assembly for Wales, in respect of elections costs. Part III provides for the expenses a Returning Officer can claim for, which do not have maximum levels specified. This Order revokes The National Assembly for Wales (Returning Officers' Charges) Order 2002 and The National Assembly for Wales (Returning Officers' Charges) (Amendment) Order 2003.
2. The Order updates the charges for services and expenses that may be recovered by 12% to allow for inflation, as measured by the Retail Price Index, since the last Assembly election. Early representations on the Order from the Elections Planning Group were taken into account and the more generous amounts for services specified in the Parliamentary Charges Order 2005, made on 16 March 2005, were reproduced in the Order for some services and expenses, with a 4% uplift to allow for inflation since the Parliamentary Charges Order was made.
3. The all Wales Elections Planning Group was established as a result of a recommendation by the Electoral Commission in a report commissioned by the Assembly following the 2004 local elections in Wales. Led by the Assembly, it is a forum for best practice and establishing a co-ordinated approach to electoral administrative issues. It consists of representatives from the Electoral Commission, the Association of Electoral Administrators, the Society of Local Authority Chief Executives, the Wales Office, the Department of Constitutional Affairs and the four major political parties.
4. The Order refers to:
 - Article 2 (6), which provides for maximum amounts recoverable by Returning Officers in connection with uncontested Assembly elections. This amount has been updated by 12%.
 - Schedule Part I, Article 3, paragraph 1, which provides for maximum amounts recoverable by Constituency Returning Officers for their services in connection with constituency and regional elections. This amount has been based on the Parliamentary Charges Order 2005 and updated by 4% to allow for inflation for the period March 2005-May 2006.

- Schedule Part I Article 3, paragraph 2, which provides for maximum amounts recoverable by Regional Returning Officers for their services in connections with regional elections. This amount has been updated by 26% to be comparable with the increase in the fee available to the Constituency Returning Officer.
- Schedule Part II paragraph 3, 4, 5, 6 and 7, which provides for maximum amounts to be recoverable by Returning Officers to cover payment to presiding officers and poll clerks at polling stations, payment to persons for clerical assistance including processing of postal votes, and training of presiding officers and poll clerks. These amounts have been updated by 12%, apart from paragraph 5 (4), (5), which was based on the Parliamentary Charges Order 2005 and updated by 4%.
- Schedule Part III, paragraphs 8 to 19, which provides for the expenses specified to be recoverable by the Returning Officer. They include the expenses of travelling, printing and delivery of poll cards, ballot papers and other documents, renting rooms, adapting buildings, providing ballot boxes, conveying ballot boxes, stationary, devices for partially sighted votes and security measures. These expenses are not subject to maximum amounts.

Risk Assessment

5. If this Order were not made, local authorities would have to claim reimbursement of election expenses under The National Assembly for Wales (Returning Officers' Charges) Order 2002 and The National Assembly for Wales (Returning Officers' Charges) (Amendment) Order 2003. This also would not be popular among Returning Officers, as since the last Assembly elections there have been Parliamentary elections at which the fees provided for, under the Parliamentary Charges Order 2005, were higher than the equivalent fees under the Assembly 2002 and 2003 Orders. Since the last Assembly elections, there has been a four-year period of inflation, which this Order aims to address.

Options

Option 1: Do Nothing

6. If this Order is not made, returning officers would not be able to plan the organisational, financial and staffing aspects of running the elections in good time for the next Assembly elections in May 2007.

Option 2: Make the Legislation

7. Making this Order would ensure there was a sound financial basis for local authorities to plan and prepare for the next Assembly elections in 2007.

Benefits

8. This Order combines the provision of the 2002 and 2003 Orders, and introduces a new provision of providing for the training of poll clerks. It has allowed for the effects of inflation in the costs of running the elections.

Costs

9. The cost of the Assembly elections is estimated at £6 million. This estimate is based on the costs of the last election, taking account of the inflation uplift. It includes the cost of the contract with Royal Mail to deliver election communications to every household in Wales. This sum will come from the Assembly contingency reserves in 2007/8.

Consultation

With Stakeholders

10. An early draft of the Order was discussed in the Elections Planning Group, and following representations from them, some of the fees and expenses were based upon the amounts specified in the Parliamentary Charges Order 2005.

11. In addition, a consultation was carried out between 25 July 2006 and 19 September 2006. The full list of consultees were:

- Returning Officers of County and County Borough Councils in Wales;
- The Welsh Local Government Association;
- The Society of Local Authorities Chief Executives;
- The Association of Electoral Administrators, Wales;
- The Electoral Commission; and
- The Wales Office.

12. 14 responses were received, and amendments were made to the Order as a result. Further details are attached at Annex A.

With Subject Committee

13. This Order was notified to the Local Government and Public Services Committee via the list of forthcoming legislation on 17 May 2006 (LGPS (2) 08-06, p.2, Item LG89) and has remained on the list ever since. The Committee did not identify the Order for detailed scrutiny.

Review

14. This Order, once made, will remain in force until the next ordinary Assembly elections in 2011. During the course of 2009/10, it will be reviewed by officials, in consultation with the Electoral Commission and the Elections Planning Group.

Summary

15. This Order is a technical measure designed to provide an up to date statutory basis for the financial aspects of conducting the next Assembly elections. It provides the requisite legal authority for Returning Officers to claim the costs of conducting the elections from the Assembly.

SUMMARY OF THE CHANGES TO THE ORDER AS A RESULT OF CONSULTATION

SCHEDULE PART I, Article 3, paragraph 1 (2), (3), & 2 - Services of a constituency and regional returning officer

The Elections Planning Group thought an increase of 12% to the fees mentioned in these paragraphs compared unfavourably to the Parliamentary Charges Order 2005, and the parliamentary order should be used as a starting point.

Regional returning officers have no equivalent in the parliamentary order, so the percentage difference between the fees for the Constituency Returning Officer in the Assembly 2003 Order and the new calculation based on the parliamentary order plus an additional 4% to allow for inflation, was applied to the fees for Regional Returning Officers.

This proposal was accepted, and the sum in the Parliamentary Charges Order 2005 plus 4% to allow for inflation since the parliament order was passed, was the maximum recoverable amount for the services of Constituency Returning Officers.

For Regional Returning Officers the maximum recoverable amount for services was increased by 26%.

SCHEDULE PART II; paragraph 5 (5) (4) - Payment to persons in connection with the issue and receipt of postal ballot papers

The Elections Planning Group expressed the view that increasing the amounts for processing postal ballot by 12% was insufficient given the extra duties contained in the Electoral Administration Act to verify postal votes. They thought the more generous amounts in the Parliamentary Charges Order 2005 should be the starting point, and that the number of voters to which the premium should apply, should revert to per 75 voters in an ordinary Assembly elections.

This proposal was accepted, and the premium for processing postal votes, in paragraph 5 (4) was the amount specified in the Parliamentary Charges Order 2005, plus 4% for inflation.

The number of voters to which this premium applied was changed to per 75 voters in paragraph 5 (5).

SCHEDULE PART III, paragraph 7 - Payments in respect of training

The Elections Planning Group wanted the provisions to allow Returning Officers to recoup the cost of training Presiding Officers to be extended to apply to the cost of training Poll Clerks.

One County Council expressed the view that the provision for training should include authority to pay Presiding Officers and Poll Clerks who attend training, but do not discharge their duties on the day of the poll.

These proposals were accepted. A new provision (6) was added to paragraph 7 to allow Returning Officers to recover the costs of paying Poll Clerks to attend training.

Amendments were made to (2) and (6) to allow Presiding Officers and Poll Clerks who attend training, to be paid, even if they subsequently did not discharge their duties.

SCHEDULE PART III, paragraph 10 – Printing etc of the ballot papers

One County Council expressed the view that a reference to the Regional Returning Officer should be inserted into this paragraph as a Regional Returning Officer had responsibility for printing the regional ballot paper. This proposal was accepted, and a reference to the Regional Returning Officer was inserted into paragraph 10.