

National Assembly for Wales
Research paper

Proposed changes to the Assembly's electoral arrangements

April 2013

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Proposed changes to the Assembly's electoral arrangements

April 2013

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This paper provides an overview of the Secretary of State for Wales' statement on 'Future Electoral Arrangements for the National Assembly for Wales' that was issued on 12 March 2013

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Summary

On 12 March 2013, the Secretary of State for Wales, the Rt. Hon David Jones MP, issued a written statement on 'Future Electoral Arrangements for the National Assembly for Wales'. The announcement followed a UK Government Green Paper consultation on the same issue that was held between May and August 2012.

This paper provides:

- An outline of the proposals announced by the Secretary of State for Wales in his statement on 12 March 2013;
- A summary of reactions to the statement; and
- Background information to the Secretary of State's announcement, including details of the UK Government's recent Green Paper consultation on the Assembly's electoral arrangements, and an update of the current review of parliamentary constituencies and its effect on the Assembly.

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Proposed changes to the Assembly's electoral arrangements

1. Introduction

On 12 March 2013, the Secretary of State for Wales, the Rt. Hon David Jones MP, issued a written statement on future electoral arrangements for the National Assembly for Wales.¹ The announcement followed a UK Government Green Paper on the same issue that was open for consultation between May and August 2012.

Although the Secretary of State was not minded to make changes to the Assembly's constituencies, he indicated that he was in favour of taking forward proposals in the Green Paper that related to extending the length of Assembly terms; to lifting the ban on dual candidacy; and to prohibiting Assembly Members from having multiple mandates.

This paper provides background and context to the Secretary of State's latest announcement, including details of the UK Government's Green Paper consultation and information about the latest developments regarding changes to Westminster parliamentary constituencies and their possible impact on Wales and the Assembly. The paper also includes a summary of the initial reactions to the Secretary of State's announcement.

¹ Wales Office, Written Ministerial Statement, [Future Electoral Arrangements for the National Assembly for Wales](#), 12 March 2013

2. The Secretary of State's announcement

On 12 March 2013, the Secretary of State for Wales, the Rt. Hon David Jones MP, issued a written ministerial statement on 'Future Electoral Arrangements for the National Assembly for Wales'.

In relation to proposals relating to changing the Assembly's constituencies, he stated that:

As a result of the Electoral Registration and Administration Act 2013, the four UK Boundary Commissions will now report in 2018 on their recommendations for new parliamentary constituencies. The boundaries of parliamentary and Assembly constituencies will remain the same until then, and there is no longer an immediate need to re-establish the link between the two sets of constituencies. **The Government does not therefore intend to proceed with the changes to Assembly constituencies proposed in the Green Paper** [*RS emphasis*].²

The Secretary of State, however, indicated that he was in favour of taking forward proposals in the Green Paper that related to the length of Assembly terms, dual candidacy and multiple mandates:

First, **we will move the Assembly from four to five-year fixed terms**. The term of the current Assembly is, exceptionally, five years, but the Assembly is set to revert to four-year terms after the next Assembly elections in 2016. A permanent move to five-year terms would make a co-incidence between parliamentary and Assembly elections in 2020 (and every twenty years thereafter) less likely.

Second, **we will end the prohibition on candidates at Assembly elections standing in both a constituency and a region at the same time**. The Government believes that, in principle, candidates should not be barred from standing in a constituency and a region, and the current prohibition impacts disproportionately on smaller parties.

Third, **we will prohibit Assembly Members from simultaneously sitting as Members of the House of Commons**. The Government does not believe that one person can adequately serve two sets of constituents. **This prohibition would not apply to members of the House of Lords** [*Research Service*].³

With regard to lifting the ban on dual candidacy, the Secretary of State was reported as providing additional reasons for the UK Government's position on the issue:

The changes made in 2006 were really partisan changes that were put in place to favour the Labour party. That is what we are rectifying now. We're rectifying it to reintroduce the system that existed back in 1999, which I think most parties apart from the Labour party thought was fair and which importantly, respected political commentators thought was fair.⁴

² [HC Deb 12 March 2013 c8WS](#)

³ Ibid

⁴ BBC News, [Betsan's Blog: Answering the Clwyd West Question](#), 12 March 2012

In relation to multiple mandates, the Secretary of State was also reported as saying that if an AM or an MP won an election to the other institution they would be able to serve in both for ‘probably’ up to one year, adding that:

If it were a relatively short period we would expect [there] would be a transitional period allowed so one person could leave one institution and go to the other ... We certainly don't want to stop anyone moving from one institution to the other but we don't think it's right that somebody should be elected with a view to sitting continuously in both bodies.⁵

The Secretary of State added in his statement that the UK Government ‘will bring forward legislation to effect these changes at the earliest opportunity’.⁶

2.1. Reactions

Most of the reactions to the Secretary of State's announcement focused on the proposed lifting of the ban on dual candidacy.

The former Secretary of State for Wales, the Rt. Hon Peter Hain MP, who was responsible for introducing the ban on dual candidacy through the *Government of Wales Act 2006*,⁷ felt that the ban should remain in place:

This seems to me to be a fundamental principle of democracy. If the voters don't want you and reject you, you shouldn't still defy their wishes and become an Assembly member. That is party blind. You shouldn't be able to lose and then win. What sort of democracy is that?⁸

Simon Thomas AM, however, was glad to see the ban lifted, reportedly describing it as one of the ‘worst effects of Labour gerrymandering’.⁹ Such views were echoed by the Conservative MP for Montgomeryshire, Glyn Davies MP, who saw the prohibition on dual candidacy as a ‘straightforward, vindictive piece of legislation by the Labour party’ and by the Welsh Liberal Democrats who also saw the ban as having ‘undermined the credibility of the electoral system by punishing parties for success’.¹⁰

Professor Roger Scully from the Wales Governance Centre stated that:

The change, introduced in the 2006 Government of Wales Act, was highly unfortunate. The manner in which it was done appeared deeply partisan ... the change back will likely be a good thing for the quality of membership of the National Assembly.¹¹

The Director of the Electoral Reform Society Wales, Stephen Brooks, also welcomed the UK Government's proposal, stating that:

This is very welcome news and we have been calling for a lifting of this ban since it was put in place in 2006. Reversing the ban brings us back in line with the norm for elections under

⁵ Wales Online, [Ban lifted on AMs standing for both constituency and regional seat](#), 12 March 2013

⁶ Ibid

⁷ *Government of Wales Act 2006* (Chapter 32)

⁸ BBC News, [Betsan's Blog: Answering the Clwyd West Question](#), 12 March 2012

⁹ Wales Online, [Ban lifted on AMs standing for both constituency and regional seat](#), 12 March 2013

¹⁰ Ibid

¹¹ Ibid

this system. We have evidence from countries' reviews into this question, such as in Scotland and New Zealand.

The conclusion has always been that there is no justification for such a ban. In tough times and with such a small Assembly we cannot afford to have our best talent on the bench.

Mr Brooks added that the UK Government's reforms should go further, stating that 'a larger Assembly elected through the Single Transferable Vote would be the best way to balance the needs of a stronger Assembly with all AMs elected under the same mandate'.¹²

The Secretary of State, however, strongly rejected such calls and was reportedly quoted as saying that the Assembly could do more within its current structures:

It seems to me there is a lot of spare capacity in the Assembly... They could sit for longer. At the moment their plenary sessions are very short. Broadly speaking, their working week at the Assembly is two, two and a half days. I think there is plenty of scope for them maybe to emulate Westminster sitting hours.¹³

¹² Wales Online, [Ban lifted on AMs standing for both constituency and regional seat](#), 12 March 2013

¹³ BBC News, [David Cornock's blog: Welsh Secretary: AMs should work longer hours](#), 12 March 2013

3. Background to the announcement

3.1. *The review of parliamentary constituencies in Wales*

Following the May 2010 UK General Election, the Conservative-Liberal Democrat Coalition began on a programme of political reform in order to fix and modernise what it perceived as the UK's 'broken' political system.¹⁴

An integral part of the UK Government's programme was the *Parliamentary Voting Systems and Constituencies Act 2011*¹⁵ ('the 2011 Act'), which required each of the four UK Boundary Commissions (for England, Wales, Northern Ireland and Scotland) to conduct a review of parliamentary constituencies in their area to ensure that:

- The total number of parliamentary constituencies in the UK should be reduced from 650 to 600 (502 seats in England, 16 in Northern Ireland, 52 in Scotland and **30 in Wales**); and that;
- The population size of each constituency should be within 5 per cent of the 'UK electoral quote' of 76,641.

Details of the way in which boundary reviews are conducted in Wales, including information about the Boundary Commission for Wales is included in **Annex A**.

The 2011 Act also required each of the four boundary commissions to submit final reports on their reviews (known as the 'sixth general review') to the UK Government before 1 October 2013, which both Houses of the UK Parliament would then have to approve by Order before coming into effect. The changes were intended to be in place in time for the next UK General Election on 7 May 2015.

The Boundary Commission for Wales published their initial proposals on 11 January 2012.¹⁶ This was followed on 24 October 2012 by the publication of revised proposals, where responses to the initial proposal were taken into account.¹⁷

The likelihood of the sixth general review leading to any practical boundary changes was significantly diminished, however, following an announcement by the Deputy Prime Minister, the Rt. Hon Nick Clegg MP, on 6 August 2012 in which he stated that the Liberal Democrats would not vote to approve the Order implementing the recommendations of the Boundary Commissions as a result of plans to drop the UK Government's proposals for the reform of the House of

¹⁴ UK Government, *The Coalition: Our programme for government*, May 2010

¹⁵ *Parliamentary Voting Systems and Constituencies Act 2011* (Chapter 1)

¹⁶ Boundary Commission for Wales, *Initial proposals*, January 2012

¹⁷ Boundary Commission for Wales, *Revised proposals*, October 2012

Lords.¹⁸ The Deputy Prime Minister subsequently made a statement to the House of Commons on the issue on 3 September 2012.¹⁹

In the event, the need for a vote in the UK Parliament on an Order to bring into effect the changes to the revised boundaries will now not be required following clauses inserted into what became the *Electoral Registration and Administration Act 2013*,²⁰ during its passage through the UK Parliament.

The new clauses, which were inserted by amendments during Committee stage of the then Bill in the House of Lords, **in effect ended the sixth general review by postponing the date on which the Boundary Commissions would have to submit their final reports on parliamentary constituencies to the Secretary of State until 2018** (rather than 1 October 2013 as previously required by the 2011 Act).²¹

The House of Commons considered this amendment to the Bill on 29 January 2013, where the Leader of the House of Commons, the Rt. Hon Andrew Lansley MP, argued against postponing the date on which the Boundary Commissions would have to submit their final reports to the Secretary of State until 2018. The motion to disagree with the Lords amendments, however, was defeated, with the Liberal Democrats voting with the opposition parties to defeat the UK Government on the issue.²²

3.2. *Decoupling of parliamentary and Assembly constituencies*

The 2011 Act also provides for **the decoupling of parliamentary and Assembly constituencies in Wales**. Section 13(1) of the 2011 Act states that:

The Assembly constituencies are the constituencies specified in the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006* (S.I. 2006/1041)²³ as amended by—

the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2008* (S.I. 2008/1791)^{24, 25}.

This is similar to the situation in Scotland where the Scottish parliamentary constituencies and UK parliamentary constituencies have been decoupled since the 2005 UK General Election. This was as a result of the *Scottish Parliament*

¹⁸ BBC News, [Nick Clegg: Lords reform plans to be abandoned](#), 6 August 2012

¹⁹ *HC Deb 3 September 2012 c35*

²⁰ *Electoral Registration and Administration Act 2013* (Chapter 6)

²¹ House of Commons Library, [Commons Library Standard Note SN05929: Constituency boundaries: the sixth general review](#), 1 February 2013

²² The Guardian, [Lib Dems vote with Labour to reject constituency boundary review](#), 29 January 2013

²³ *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006* (S.I. 2006/1041)

²⁴ *Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2008* (S.I. 2008/1791)

²⁵ *Parliamentary Voting Systems and Constituencies Act 2011* (Chapter 1), Section 13(1)

(Constituencies) Act 2004,²⁶ which removed the statutory link between the two sets of constituencies.²⁷

The 2011 Act does provide, however, in limited circumstances (along with provisions in the *Parliamentary Constituencies Act 1986*²⁸) for the Assembly's constituencies to be amended by Order following the submission of a report by the Commission to the Secretary of State recommending changes to the size of Welsh parliamentary constituencies.

Although plans to reduce the number of parliamentary constituencies in Wales will now not take place ahead of the UK General Election in May 2015, the decoupling of Assembly and parliamentary constituencies has already had an impact.

The *Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2011*,²⁹ which came into force on 14 December 2011, makes changes to Assembly constituencies and electoral regions but does not extend to parliamentary constituencies, which remain the same. The Order amends the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006* and makes minor changes to four Assembly constituencies as a result of changes made to local government boundary areas.

The Assembly constituencies affected are:

- Brecon and Radnorshire;
- Merthyr Tydfil and Rhymney;
- Ogmore;
- Pontypridd;
- Cardiff South and Penarth;
- Cardiff North;
- Vale of Glamorgan.

²⁶ *Scottish Parliament (Constituencies) Act 2004* (Chapter 13)

²⁷ Further information about the situation in Scotland is available in Chapter 3.2 of National Assembly for Wales Research Service, *The review of parliamentary constituencies in Wales*, September 2011

²⁸ *Parliamentary Constituencies Act 1986* (Chapter 56)

²⁹ *The Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2011* (S.I.2011/0000)

The then Parliamentary Secretary for the Cabinet Office, Mark Harper MP, explained the background to the changes included in the Order in his evidence to the House of Commons' Third Delegated Legislation Committee on 21 November 2011:

The Boundary Commission for Wales was the only boundary commission to be engaged in interim reviews while the Bill that became the Parliamentary Voting System and Constituencies Act 2011 was going through Parliament. That Act provides for any interim reviews by the Boundary Commission for Wales that were pending at the time of the passing of the 2011 Act to be completed and implemented, although the recommendations would apply only for the purposes of the National Assembly for Wales, not for Westminster.

This order implements the recommendations of four such pending reviews. They make recommendations in relation to the boundaries between the following constituencies: Brecon and Radnorshire, and Merthyr Tydfil and Rhymney; Ogmere and Pontypridd; Cardiff North, and Cardiff South and Penarth; and Cardiff South and Penarth, and Vale of Glamorgan.

The Boundary Commission for Wales carried out the reviews as a result of four orders made by Welsh Ministers during the period from 2008 to 2010 that made changes to the boundaries of local government areas in Wales. As a result, **the boundary between certain parliamentary constituencies in the areas covered by the local government boundary changes no longer followed the new local government boundaries** *[RS emphasis]*.³⁰

The Parliamentary Secretary added that the changes 'are relatively small' and '**affect about 900 electors in total across the four reviews, although obviously for individual electors the changes might be significant**'.³¹

3.3. *Green Paper on future electoral arrangements for the Assembly*³²

Mainly as a result of the proposals to reduce the number of Welsh MPs from 40 to 30, the then Secretary of State for Wales, the Rt. Hon Cheryl Gillan MP, launched a 12 week Green Paper consultation on future electoral arrangements for the Assembly on 21 May 2012.³³ According to the accompanying press notice, the Green Paper:

sets out the Government's options and proposals for changes to the make-up of the Assembly, including the number of Assembly constituencies, the length of Assembly terms, whether candidates can stand at the same election in an Assembly constituency and a region and whether Assembly Members should be able to sit simultaneously in the Westminster Parliament.³⁴

³⁰ [HC Deb Third Delegated Legislation Committee 21 November 2011 c4-5](#)

³¹ Ibid

³² Further information about the initial Green Paper is included in National Assembly for Wales Research Service, [Research Paper: Future electoral arrangements for the Assembly](#), June 2012

³³ Wales Office, [A Green Paper on future electoral arrangement for the National Assembly for Wales](#), May 2012

³⁴ Ibid, page 8

The Green Paper itself stated that ‘recent developments in Welsh devolution also provide a backcloth to this consultation exercise’,³⁵ adding that:

The Assembly now has law making powers in all twenty areas which are devolved to Wales following an affirmative vote in the referendum held in March 2011 ...

The review should help underpin the Welsh devolution settlement by making the devolved institutions in Wales - the Assembly and the Welsh Government - more accountable to the people they serve and identifying where the boundaries of the settlement can be made more straightforward.³⁶

The Green Paper in particular requested views on the following issues:

- **Proposals relating to changing Assembly constituencies:** In anticipation of the reduction of Welsh MPs from 40 to 30, the Green Paper asked whether the Assembly should continue with its existing 40 constituencies or whether the link between Assembly and parliamentary constituencies should be re-established;
- **Length of Assembly terms:** Following the move to five-year fixed parliamentary terms provided for by the *Fixed-terms Parliaments Act 2011*, the Green Paper sought views on whether Assembly terms in the future should be expanded from four to five years to avoid future clashes with UK General Election dates.
- **Dual candidacy:** The Green Paper stated that the UK Government favours lifting the ban on dual candidacy contained in the 2006 Act (which prohibits candidates from standing simultaneously in a constituency and on a regional party list).
- **Multiple mandates:** The Green Paper sought views on prohibiting Assembly Members from also sitting as a Member of the House of Commons or House of Lords.

Although the UK Government has recently established a Commission on Devolution in Wales (‘the Silk Commission’)³⁷ to review the financial and constitutional arrangements in Wales, the Green Paper states that issues relating to the election of AMs do not form part of the Commission’s remit³⁸ and that they would need to be dealt with separately.

³⁵ Ibid, page 11

³⁶ Wales Office, [A Green Paper on future electoral arrangement for the National Assembly for Wales](#), May 2012

³⁷ Further information about the Silk Commission is available in the research paper [The Silk Commission](#) published by the Research Service in November 2011.

³⁸ Wales Office, [A Green Paper on future electoral arrangement for the National Assembly for Wales](#), May 2012

In addition, ‘elections’ are currently not within the scope of the Assembly’s legislative powers under Schedule 7 to the *Government of Wales Act 2006*³⁹ and are therefore a matter reserved for the UK Parliament and Government.

3.4. *Reactions to the Green Paper*

In response to the Green Paper’s publication, the First Minister criticised the proposals relating to changing the Assembly’s constituencies, stating that:

There is no mandate for this. The electoral system for the assembly is a matter for the people of Wales and no one else. The Prime Minister has assured me that there would be no change to future electoral arrangements without the agreement of the Assembly.⁴⁰

These views were reiterated subsequently in the Welsh Government’s submission to the second part of the Silk Commission relating to the Assembly’s powers. Its evidence paper stated that ‘changes to the Assembly’s electoral arrangements should only be made with the Assembly’s consent and supported by a clear mandate from a UK General Election’.⁴¹ It added in its response that:

So far as Elections are concerned, Westminster should be responsible for legislation on elections to the House of Commons and to the European Parliament. But, as the Welsh Government has argued in its response to the Wales Office consultation paper on future electoral arrangements for the National Assembly, there should be no Reservation to the UK Parliament of powers in respect of elections to the Assembly, or to Welsh local authorities (save that the Exceptions to the Assembly’s existing legislative powers, in respect of the local government franchise and electoral registration, should be confirmed as matters Reserved). **So the Assembly should have a general power to legislate on Welsh elections (including the administration of elections, terms of office for local councillors, and voting systems) subject to those Reservations, and possibly with a special procedure, such as a special majority, being required if it chooses to legislate on Assembly elections** [*RS emphasis*].⁴²

The First Minister was, however, less critical of other proposals included in the Green Paper, stating in a plenary debate on the Green Paper in the Assembly on 12 June 2012 that:

I do not want to be wholly negative about the Green Paper. I welcome, for example, the consultation on whether the Assembly should have five-year terms. It is a widely held view in the Chamber that clashes with UK general elections are to be avoided.⁴³

The Green Paper was also debated in Grand Committee in the House of Lords on 18 June 2012⁴⁴ and in Westminster Hall in the House of Commons on 3 July 2012.⁴⁵

³⁹ *Government of Wales Act 2006* (Chapter 32)

⁴⁰ BBC News, *Welsh Assembly voting: Cheryl Gillan proposes new seats for 2016 election*, 21 May 2012

⁴¹ Welsh Government, *Evidence submitted by the Welsh Government to the Commission on Devolution in Wales*, 18 February 2013

⁴² *Ibid*

⁴³ National Assembly for Wales, *RoP: Plenary*, 12 June 2012

⁴⁴ *HL Deb 18 June 2012 cGC125*

The Wales Office's consultation on the Green Paper closed on 13 August 2012. A total of 68 responses were received and a summary was published by the Wales Office in November 2012.⁴⁶ Responses were received to the consultation from, amongst others, the Welsh Government, all four Assembly party groups, a separate submission from the Welsh Conservatives, three MPs⁴⁷ representing Welsh constituencies and 11 Assembly Members.⁴⁸

⁴⁵ [HC Deb 3 July 2012 c187WH](#)

⁴⁶ Wales Office, [A Green Paper on future electoral arrangements for the National Assembly for Wales: A summary of responses](#), November 2012

⁴⁷ Guto Bebb, Madeline Moon and Peter Hain

⁴⁸ Christine Chapman, David Rees, Janice Gregory, Julie James, Julie Morgan, Ken Skates, Leighton Andrews, Lesley Griffiths, Mark Isherwood, Mike Hedges, Jeff Cuthbert

A. The boundary review process in Wales

The body responsible for reviewing both parliamentary and Assembly constituency and electoral region boundaries in Wales is the Boundary Commission for Wales ('the Commission'). It is one of the four Boundary Commissions for the UK, along with the Boundary Commissions for England, Northern Ireland and Scotland.

The Commission is established and constituted under Schedule 1 to the *Parliamentary Constituencies Act 1986*⁴⁹ ("the 1986 Act") (as amended by the *Boundary Commissions Act 1992* and the *Political Parties, Elections and Referendums Act 2000*) for the purpose of the continuous review of the distribution of seats at parliamentary elections. It is an advisory Non-Departmental Public Body funded by the Cabinet Office.

The Commission is responsible for periodically conducting a general review of all the constituencies in Wales and for submitting reports to the UK Government recommending how parliamentary seats in Wales should be distributed. The 1986 Act requires the Commission to submit such reports at any time between eight and twelve years from the submission date of the previous report.

The last review conducted by the Commission was the fifth general review of parliamentary constituencies (which was also the first report on the Assembly's constituencies), which was laid before the UK Parliament on 14 December 2005. *The Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006*⁵⁰ gave effect to the recommendations contained in the report, including retaining the number of parliamentary seats in Wales at 40 and making numerous changes to 24 of those constituencies. The Order came into force ahead of the Assembly elections in May 2007 and also provided the basis for the parliamentary boundaries used in Wales for the 2010 UK General Election.

⁴⁹ *Parliamentary Constituencies Act 1986* (Chapter 56)

⁵⁰ *The Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006*, SI 2006/1041