

Scottish Elections (Reform) Act

Purpose

1. To provide an update on the progress of the legislation and seek views on the proposed commencement dates for various sections relating to the Commission's **interests**.

Background

2. The Act makes a number of changes to issues affecting the work of the Commission. Key provisions include:
 - changing term lengths from four to five years for the Scottish Parliament and local government;
 - allowing two and five member council wards in addition to three and four member wards;
 - **changing the Commission's name to Boundaries Scotland and consequential amendments;**
 - changing the approval process for recommendations;
 - changing the review schedule for electoral arrangements to every 15 years rather than 8 to 12;
 - changing the date of submission of the 2nd review of Scottish Parliament constituencies to 2025; and
 - making a minor change to publicity arrangements for reviews of Scottish Parliament boundaries.
3. The Commission considered changes to the Bill up to Stage 2 at its last meeting. This paper provides an update on Stage 3 consideration.

Stage 3 changes

4. The Scottish Elections (Reform) Bill completed its passage through the Scottish Parliament on 3 June 2020. The Official Report of Stage 3 consideration and the final debate is here:
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12671&i=114659>
5. Stage 3 amendments lodged by Scottish Government introduced the requirement that the Commission give an explanation of any use of 2 member wards (other than in the islands reviews) in its reports. Much of the comment from MSPs, however, focussed on expectation that use of 2 members, and to a lesser extent 5 members, be exceptional, something that is not set out in legislation where use of 2, 3, 4 or 5 are options without constraint. Impact on proportionality was the reason for the argument that 2-members should be exceptional and one exchange went further when Mark Ruskell MSP asked:

“whether Boundaries Scotland will be able to comment in the reports on that proportionality aspect in making a recommendation to Parliament. That is clearly not its primary consideration in a proposal for a changed ward boundary and the number of members who represent that ward, but considering proportionality and how the adoption of a two-member ward might impact on that for voters would certainly be useful.”

6. The Minister responded that:

“That is not specified in what is being asked of Boundaries Scotland, but it is a reasonable ask and it is a conversation that we can have in relation to the make-up of the **explanation that it provides.”**

7. The Commission will wish to be aware of this contextual discussion around the introduction of 2 and 5 member wards and the expectations of its future reports. Some of these issues might arise in the now delayed strategic work to consider multi member wards. With regard to possible Scottish Government work in this area the Minister, in his opening remarks, said:

“As I have maintained throughout this process, the Scottish Elections (Reform) Bill is a step in an on-going journey; it is by no means the end of the road. For example, members have raised questions about proportionality and accountability in electoral wards, and calls have been made for a wider review of our council multimember ward system. Such a complex piece of work is clearly a question for the next parliamentary session, but I am pleased that the bill has **encouraged that debate.....”**

8. This may be something that the Chair will wish to raise with the Minister at their next meeting, the timing of which the Commission may want to consider.

Commencement

9. Now the Bill has been enacted, the Scottish Government is considering arrangements for commencement, that is the bringing into force of the provisions. In summary there are 3 options for commencement of the sections relating to the work of the Commission:

- Commence all sections relating specifically to the Commission in the Autumn. We would then need consider the rebranding issues from the name change before the islands review public consultation later this year.
- Commence section 31 in the Autumn so the use of 2 and 5 member wards is in place before the public consultation. Scottish Government are not keen on this option as it would require additional legal work to

implement a section that refers to “Boundaries Scotland” before the name change has itself been enacted.

- Commence all sections relating to the Commission in advance of the submission of the islands reviews reports ie before next May. This would mean consulting publicly on options using 2 and 5 member wards before the relevant sections had been enacted. However, now Royal Assent has been received there is no risk of further amendment to the framework within which the Commission works.

10. On balance, and having discussed with Scottish Government officials, the third option is recommended by the Secretariat. It ensures continuity of name through the next phase of the Islands reviews and so avoids any confusion before the public consultation. It also allows us to give further thought to how we publicise the name change, perhaps taking the opportunity to link rebranding with the planned but currently deferred work around multi-member wards. Finally it avoids additional pressure on Scottish Government, including legal services, at this time.

Conclusion

11. The Commission is invited to:

- note the Stage 3 consideration of the Scottish Elections (Reform) Bill;
- agree its preferred option for commencement of sections relevant to the Commission. The Secretariat will then let Scottish Government know our preference; and
- consider the timing of the next meeting with the Minister for Parliamentary Business in order to discuss work of the Commission.

Secretariat
July 2020