

LEGISLATIVE CONSENT MEMORANDUM

Electoral Registration and Administration Bill – UK Legislation

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Finance and Sustainable Growth, is:

“That the Parliament agrees that the relevant provisions of the Electoral Registration and Administration Bill, introduced in the House of Commons on 10 May 2012, relating to Individual Electoral Registration and absent voting and rejected postal votes, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth, under Rule 9B.3.1(a) of the Parliament’s standing orders. The Electoral Registration and Administration Bill (“the Bill”) was introduced in the House of Commons on 10 May 2012. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2012-13/electoralregistrationandadministration.html>

Content of the Electoral Registration and Administration Bill

3. The Bill contains provision about the registration of electors and the administration and conduct of elections.

4. In summary, the clauses in Part 1 and the schedules to the Bill relating to Individual Electoral Registration (“IER”) will:

- Provide that each elector must apply individually to be registered to vote after the transition to the new system.
- Make transitional arrangements over two years, including using data matching to verify entries, and providing for the ‘carry forward’ of electors who are not automatically verified and fail to register under the new system in the first year, so that they remain on the first register published under the new system (likely to be the register used for the 2015 UK general election).
- Create a legislative framework to allow alternative channels for registration, such as online registration, to be offered.
- Provide for the use of data matching to verify applications, check existing entries in registers and find individuals who do not currently appear on the register.
- Make provision for an annual canvass which is compatible with the new registration system and provide a power to amend or abolish the annual canvass in future, subject to a report by the Electoral Commission and an order requiring the approval by a resolution of each House of Parliament.

- Ensure that all those wishing to vote by post or proxy will need to be registered under the new registration system to utilise these voting methods after the first annual canvass under the new system.
- Introduce a civil penalty for those who fail to make an application when required to do so by an Electoral Registration Officer ("ERO").

5. The Bill also includes provisions in Part 2 in relation to the administration and conduct of elections. The provisions in the Bill are intended to improve the way elections are run, increase voter participation, and further improve the integrity and robustness of the electoral system. In summary, clauses relating to the administration and conduct of elections include provisions intended to:

- Extend the electoral timetable for UK Parliamentary elections from 17 to 25 working days, which will also have the consequence of altering a number of the deadlines within the timetable (in particular the date for delivery of nominations) which are fixed to the start of the electoral timetable. This will allow more time for the postal vote process and facilitate the administration of elections more generally.
- Provide for there to be two interim publication dates at UK Parliamentary elections and other specified polls, where an election is pending, on which notices of alteration to the electoral register must be published.
- As a consequence of an extended electoral timetable, move the deadline for appointing polling and counting agents at UK Parliamentary elections from 2 to 5 days before polling day.
- Make changes to the timing of polling place reviews in Great Britain to bring them in line with the five year Parliamentary terms established by the Fixed-term Parliaments Act 2011, and the five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011.
- Address an oversight in existing legislation to enable a UK Parliamentary election candidate jointly nominated by two or more registered political parties to use, on the ballot paper, an emblem registered by one of the nominating parties.
- Enable regulations to be made to place EROs under a duty to give notifications about rejected postal votes, and to specify the circumstances where this duty arises. It is proposed that the regulations place EROs under a duty to inform (after an election) electors whose postal votes had been rejected because the postal vote identifiers (that is, signature and date of birth) did not match those stored on record for that elector. This would help voters who submitted their postal ballot packs in good faith to avoid their vote being rejected at successive elections.
- Provide that the Secretary of State may, upon a recommendation from the Electoral Commission, withhold or reduce a Returning Officer's fee for reasons of poor performance. Returning Officers' fees and the expenses they incur in running UK Parliamentary and European Parliamentary elections are met by the UK Government out of the Consolidated Fund.

Provisions which relate to Scottish local government polls

6. The provisions relating to the introduction of IER set out that from the point when the first revised electoral register is published following the introduction of

individual registration (which is likely to be December 2014) those existing electors who are not yet registered under individual registration will retain their entry in the electoral register for a further year. However any such electors “carried over” in 2015 who have a postal or proxy vote will lose their absent vote until they register under the new system. This means that such electors will be able to cast a vote in person at the likely 2015 UK general election but will not be able to use absent voting methods. The legislation also amends the eligibility requirements for being appointed as, or voting as, a proxy such that all proxies must be registered to vote. This means that, with the move to individual registration in Great Britain and the existing system of individual registration in Northern Ireland, all proxies will be required to be registered under a system of individual registration.

7. The Bill also contains a new proposal to place EROs under a duty to inform (after an election) those electors whose postal votes had been rejected because the postal vote identifiers did not match those stored on record for that elector. The intention is to give EROs the power to require the resubmission of signatures from past votes where there had been a mismatch. The notification, and the power to update signatures, would reduce the number of postal voters who inadvertently invalidated their postal vote at successive elections and help to support participation in the electoral process.

Reasons for seeking a legislative consent motion

8. Electoral Registration is a reserved matter. The conduct of local government elections in Scotland, including arrangements for absent voting, are devolved.

9. It would be beneficial that the IER provisions should apply to local elections in the same way as they apply at other elections in Scotland to avoid diverse requirements for postal voters during the transitional phase to IER, and to avoid potential confusion relating to the eligibility to vote by proxy. The proposed arrangements to notify absent voters whose vote is rejected will benefit those voters and reduce the number of votes that cannot be counted. They address a problem that arises at local elections, as much as at other elections.

10. It is open to the Scottish Government to legislate to introduce similar provisions for Scottish local government elections. However, there would be merit in introducing these provisions on a GB-wide basis for consistency, and in the interests of efficient use of Parliamentary time. Such an approach was adopted during the passage of the Bill that became the Representation of the People Act 2000, the Scottish Parliament endorsing the principle of ensuring consistency of absent voting provisions for parliamentary and local government elections in Scotland (by a motion of 13 January 2000).

11. On 11 April the Parliamentary Under Secretary for Constitutional and Political Reform at the UK Cabinet Office, Mark Harper MP, wrote to the Minister for Local Government and Planning, Derek Mackay MSP, inviting the Scottish Government to consider these proposals. The Minister responded on 1 May agreeing in principle to progress a LCM for the provisions.

Consultation

12. The UK Government has conducted extensive consultation on these provisions with the following parties:

- Electoral stakeholders
- The Electoral Commission
- The Association of Electoral Administrators (AEA)

More widely, the UK Government has held a public consultation on Individual Registration in June 2011. <http://www.cabinetoffice.gov.uk/resource-library/individual-electoral-registration-draft-bill>
<http://www.cabinetoffice.gov.uk/news/new-voter-registration-steps-set-out>
<https://update.cabinetoffice.gov.uk/resource-library/ier-command-paper>

Financial Implications

13. There are no significant financial implications relating to the implementation of this LCM by the Scottish Parliament.

14. The UK Government has allocated £108m to meet the cost of implementing Individual Electoral Registration. This includes £85m resource funding in 2014/15 to fund registration officers to make contact with each potential elector individually and invite them to register in 2014 with the potential to use data matching to confirm existing entries during the transition.

15. It is estimated that after the move to Individual Electoral Registration is complete, the annual ongoing cost of electoral registration will be an additional £13m per annum; although any future decision to stop the annual canvass as provided for in the Bill can be expected to bring costs down significantly.

16. These costs will be met by the UK Government.

17. It is likely that the provision requiring EROs to inform electors whose postal vote identifiers failed (after a poll) will have limited resource implication for electoral administrators and their staff, and be offset by the efficiency savings made elsewhere in the Bill.

Conclusion

18. The Scottish Government considers that extending the provisions relating to Individual Electoral Registration and absent voting, as contained in the Electoral Registration and Administration Bill that is currently before the UK Parliament, is in the interests of the Scottish electorate. The Scottish Government therefore recommends that the Parliament agree to this LCM.

Scottish Government

May 2012