

# Electoral Commission briefing for Stage 2 debate on Referendums (Scotland) Bill

**November 2019**

This briefing sets out a summary of the Electoral Commission's views on amendments to the Referendums (Scotland) Bill.

We welcome amendments tabled by the Scottish Government which address recommendations that we have made previously, in particular:

- Requiring the Chief Counting Officer to consult the Commission before issuing directions to Counting Officers or Electoral Registration Officers (Amendments 11 and 24)
- Exempting Electoral Registration Officers from the restriction on the publication of promotional material by central and local government (Amendments 33 and 34)
- Clarifying the imprint requirement for digital campaign material (Amendments 35, 36 and 38)
- Strengthening our powers to obtain information (Amendments 56 and 57)
- Increasing the maximum fine for breaches of the referendum campaign rules (Amendment 60)
- Applying the existing code of practice for observers at local government elections for any referendum (Amendment 65)
- Specifying a 10-week referendum period (Amendment 75)

We also welcome other amendments which address our recommendations:

- Ensuring a referendum cannot be held on the same day as another scheduled poll (Amendment 80)
- Extending the prohibition on publication of referendum material by central and local government to the full referendum period (Amendment 81)

## **Referendum question assessment**

The Electoral Commission's primary concern is that Parliament is able to access the Commission's independent advice on the intelligibility of a proposed referendum question at any point it requests it, regardless of whether a question has been asked within that parliamentary session. This includes advice on whether a question may require to be

retested or – in the event that we think it should be tested – more detailed advice on the intelligibility of a particular question.

The Commission had a constructive meeting with the Cabinet Secretary to discuss Amendments 90, 91 and 92 relating to the Commission's role in any question assessment. We are continuing to discuss the finer detail with officials to ensure that the final legislation reflects the principle outlined above.

**For further information or to discuss any aspect of the Electoral Commission's recommendations please contact Sarah Mackie on [smackie@electoralcommission.org.uk](mailto:smackie@electoralcommission.org.uk) or on 0131 225 0204.**