INTRODUCTION

1. These Explanatory Notes have been prepared by Tricia Marwick MSP, the member in charge of the Proportional Representation (Local Government Elections) (Scotland) Bill, introduced in the Scottish Parliament on 26 June 2002, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

3. A Policy Memorandum is published separately as SP Bill 58–PM. A Financial Memorandum (and Presiding Officer’s statement on legislative competence) was published separately on introduction as SP Bill 58–FM.

COMMENTARY ON SECTIONS

Section 1 – Electoral reform

4. Subsection (1) adds a new subsection (A1) to section 42 of the Representation of the People Act 1983 to provide that the system of local government elections in Scotland is the single transferable vote (STV) system. Section 42(1) of the 1983 Act provides for rules to be made in relation to local government elections in Scotland, those rules being based on the rules set out in Schedule 1 to the Act. The effect of the changes to the 1983 Act made by this section is that the rules made in respect of local government elections in Scotland must be rules to implement STV for such elections.

5. Subsection (2) amends the Local Government etc. (Scotland) Act 1994 to provide for the election of up to eight councillors in each electoral ward. The STV system requires the use of multi-member wards.
Section 2 – Power to specify new electoral arrangements

6. Section 17 of the Local Government (Scotland) Act 1973 gives power to the Scottish Ministers to make orders to implement reports from the Local Government Boundary Commission for Scotland. The Commission reports on a defined cycle, subject to directions by the Scottish Ministers.

7. The changes to electoral law made by section 1 of the Bill would require revision of the existing local government electoral arrangements (to create the much larger multi-member wards required for STV). This could be achieved for the first elections by the grouping together of existing wards. Subsection (1) of this section replicates previous arrangements for local government reform by introducing a mechanism for elections under the STV system to take place before the next full report has been made by the Boundary Commission, using wards specified in an order made by the Scottish Ministers. The Scottish Ministers are required under subsection (3) to consult on their proposals before such a draft order is laid before the Scottish Parliament for approval by resolution (that is, as an “affirmative instrument”).

8. Under paragraph 1(1) of Schedule 6 to the Local Government (Scotland) Act 1973, in considering making an order under this section of the Bill, the Scottish Ministers would require to observe the same rules as the Boundary Commission.

Section 3 – Amendment of rules to be observed in considering electoral arrangements

9. Under the new STV system, local authority areas will require to be divided into larger wards each electing up to eight councillors. The amendment made by this section ensures that the Boundary Commission, in drawing up its reports, or the Scottish Ministers in making orders in relation to electoral arrangements, must try to obtain roughly equal representation across the local government area. The result might be, for example, that an electoral ward electing five councillors would have around 50,000 electors while an electoral ward electing six councillors would have around 60,000 electors.

Section 4 – Power to make further provision about electoral arrangements

10. This section enables Ministers to ensure an ordered transition to the new STV system. It will allow the existing local authority arrangements to continue while consultation is carried out on the new arrangements and orders are made by the Scottish Ministers.
PROPORTIONAL REPRESENTATION (LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) BILL

EXPLANATORY NOTES

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