This document relates to the Scottish Local Government (Elections) Bill (SP Bill 38) as introduced in the Scottish Parliament on 4 October 2001

SCOTTISH LOCAL GOVERNMENT (ELECTIONS) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Scottish Local Government (Elections) Bill introduced in the Scottish Parliament on 4 October 2001:

   • Explanatory Notes;
   • a Financial Memorandum;
   • an Executive Statement on Legislative Competence; and
   • the Presiding Officer’s Statement on Legislative Competence.

A Policy Memorandum, also prepared by the Scottish Executive, is printed separately as SP Bill 38–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive 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.

3. 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 a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

Section 1 – Synchronisation of polling at local government and Scottish Parliamentary elections

4. Section 5(3) of the Local Government etc. (Scotland) Act 1994 provides for local government elections to be held on a three-year cycle. Section 1 of this Bill deletes the reference to the three-year cycle and inserts a new provision for local government elections to be moved to a four-year cycle by being linked to the years in which ordinary elections to the Scottish Parliament occur.

Section 2 – Power to synchronise polling at local government and Scottish Parliamentary elections

5. Section 2 makes amendments to sections 43(1) and (2) of the Representation of the People Act 1983 which deal with the date and timing of local government elections in Scotland. These amendments are consequential upon the principle of section 1 of the Bill and provide powers to synchronise local government elections with an advanced or postponed ordinary general election and an extraordinary general election of the Scottish Parliament.

Section 3 – Revision of provisions relating to timing of elections

6. Section 3 amends sections 4(3) and 5(4) of the Local Government etc. (Scotland) Act 1994 and sections 43(1), (2) and (3) of the Representation of the People Act 1983. These amendments correct minor inaccuracies of language and statutory references. Subsection (4) gives the amendments made by subsection (3) retrospective effect. The amended provisions will therefore be interpreted as if they had always included the amendments.

Section 4 – New electoral procedures

7. This section allows Scottish Ministers to make orders enabling local authorities in Scotland to run pilot schemes of innovative electoral procedures at particular local government elections.
8. Under subsection (1) a local authority must submit their proposals to Scottish Ministers who will, if they approve them (with or without such modifications as they consider appropriate), make the necessary order to allow the pilot to take place.

9. Subsection (2) provides that pilot schemes may make provision which differs from the normal provision made by or under the Representation of the People Acts in relation to when and where voting takes place, the method used to cast votes, how votes are to be counted and the sending of elections addresses by candidates free of postal charges.

10. Subsection (3) provides that pilot schemes may make provision for voting to take place over more than one day and at places other than polling stations. Pilot schemes may also allow for the local authority concerned to meet the postage costs of the distribution of candidates’ election addresses, in which case the order providing for the pilot scheme may disapply the provisions of section 75(1) of the Representation of the People Act 1983 (which restrict third party expenditure).

11. Subsection (4) enables a pilot scheme to be run across the whole of a local authority’s area or only in some parts of it.

12. Subsection (5) allows Scottish Ministers to consult appropriate bodies on any pilot scheme proposal and requires them to consult the appropriate local authority of any modifications proposed to that scheme.

13. Subsection (6) provides that where Scottish Ministers make an order for implementing a pilot scheme they must send a copy of the order to the local authority concerned, which must publish it in their area.

14. Subsections (7)-(11) deal with evaluation of pilot schemes. A local authority running a pilot is required to produce a report on the scheme.

15. The report must include details of the scheme together with a copy of the order authorising it made by Scottish Ministers.

16. The report must also include an assessment of the scheme in facilitating voting or in encouraging voting or enabling voters to make informed decisions. The report about voting must include a statement as to whether in the local authority’s opinion:
   - turnout was higher than it would otherwise have been,
   - voters found the new arrangements easy to use,
   - the new procedures led to any increase in personation or other electoral fraud.

17. The report must also include an assessment of any other matters that Scottish Ministers have requested should be included in the report.
18. The report must be completed and sent to Scottish Ministers within three months from the day on which the election results are declared, and the local authority must also within that time limit publish the report in their area.

19. Subsection (12) has the effect that an application to run a pilot scheme submitted to Scottish Ministers before the Bill receives Royal Assent is to be treated in the same fashion as those submitted after that time.

Section 5 – Revision of procedures in the light of pilot schemes

20. This section is concerned with the implementation of innovations that have been successfully piloted.

21. Subsection (1) enables Scottish Ministers to make an order providing for an innovation which has been piloted to apply generally and permanently to local government elections in Scotland. Such an order can modify or disapply any legislative provision in relation to the elections to which it will apply.

22. Subsection (2) provides that an order may exempt particular local government areas from its provisions but, otherwise, must make the same provision throughout Scotland for all the elections that it relates to.

23. Subsections (3) and (4) provide that an order must be made by statutory instrument which needs to be approved by the Scottish Parliament, and that when laying such an order Scottish Ministers must also lay copies of the evaluation report of the relevant pilot scheme(s).

24. Subsection (5) provides that rules made under section 42 of the Representation of the People Act 1983 may make such provision as Scottish Ministers consider appropriate in connection with any order rolling out a pilot scheme.

25. Subsection (6) provides that nothing in section 5 prejudices the powers contained in other Acts to make secondary legislation relating to elections.

FINANCIAL MEMORANDUM

26. The introduction of the ability to run pilot schemes may involve councils in additional expenditure but the extent of this will depend on the nature of the pilot scheme. We cannot predict with certainty how many schemes there will be nor what their nature will be. Based on experiences in England and Wales there are unlikely to be more than 2 or 3 schemes a year. Some schemes may save money through increased efficiencies. Others may result in increased costs but each scheme will not cost more than a few thousand pounds. If a pilot scheme were to be extended throughout Scotland and the additional expenditure thereby incurred was agreed to
be a substantial new burden on local authorities then the Executive would, within the mechanisms under which consultation on new burdens takes place, consider the case for additional funding with COSLA. The move to a four-year cycle of local government elections (which will result in one election fewer being held over a period of twelve years) and the synchronisation of local government and Scottish Parliamentary elections may offer local authorities potential savings in administration costs. The Bill involves no costs to other bodies, individuals or businesses.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

27. On 4 October 2001, the Minister for Finance and Local Government (Angus MacKay) made the following statement:

“In my view, the provisions of the Scottish Local Government (Elections) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

28. On 3 October 2001, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Scottish Local Government (Elections) Bill would be within the legislative competence of the Scottish Parliament.”
This document relates to the Scottish Local Government (Elections) Bill (SP Bill 38) as introduced in the Scottish Parliament on 4 October 2001

SCOTTISH LOCAL GOVERNMENT (ELECTIONS) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

© Copyright The Scottish Parliamentary Corporate Body 2001

EDINBURGH: THE STATIONERY OFFICE

Printed in the United Kingdom by The Stationery Office Limited

£1.50

Applications for reproduction should be made in writing to the Copyright Unit, Her Majesty’s Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax 01603 723000.

Produced and published in Scotland on behalf of the Scottish Parliament by The Stationery Office Ltd.

Her Majesty’s Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliament publications.