The Electoral Commission

Scottish Parliament (Recall and Removal of Members) Bill – Stage 2 briefing

28 January 2026

The Electoral Commission is the independent body which oversees elections and regulates political finance in the UK. We work to promote public confidence in the democratic process and ensure its integrity. A key part of our role is to provide advice to the UK's parliaments on matters relating to elections.

Overview

This briefing sets out the Electoral Commission's views on amendments to the Scottish Parliament (Recall and Removal of Members) Bill, to support consideration at Stage 2. The Committee will understand that the Commission, like Committee Members, has only had limited time to consider the detail of these amendments. We may have further comments on the workability and feasibility of the proposed measures as the bill progresses to Stage 3.

We welcome the engagement we have had with Graham Simpson MSP, the Parliament's Non-Governmental Bills Unit, and the Scottish Government as amendments were drafted. The amendments proposed address our key concerns around the flexibility of poll dates, which we have expanded on in this paper.

Graham Simpson MSP's amendments would also reduce the two-stage regional petition process proposed in the Bill as introduced, to a single stage regional poll process. A single stage recall poll would be easier for voters and campaigners to understand, and for electoral administration teams to deliver.

As ever, the Commission does not take a view on policy positions that are matters for Parliament, for example, the criminal offence grounds for recall. The points we raise in this paper are focused on workability of the processes, with the goal of ensuring those who wish to participate in the recall process can do so.

Key considerations

1. We welcome amendment 77, which proposes to amend the Political Parties, Elections and Referendums Act (PPERA) 2000 to require consultation with the Commission on regulations made under section 21 of the Scottish Parliament (Recall and Removal of Members) Bill 2025 (power to make further provision about processes, etc.).

2. We also welcome the flexibility around the start of the signing period for a petition, (as set out in Amendment 29) and around regional poll dates (Amendment 65). We also welcome that these amendments would require consultation with the Commission, the relevant Returning Officer (RO), and the convener of the Electoral Management Board on dates.

   These amendments will help to mitigate our previous concern that a fixed date could create challenges for voters and administrators if this coincided with another scheduled electoral event – for example, a local council, Scottish Parliament or UK Parliament by-elections. Our primary concern was that this could lead to confusion for voters faced with overlapping notifications, communications and campaigning.

   As set out further in paragraph 4, below, we consider that Constituency Returning Officers (CROs) will have a material role in the delivery of a regional recall poll. We would suggest that, in the case of a regional recall poll, consultation with the CROs involved would also be welcome.

3. The Committee will note that there is not a consistent approach to the power to amend dates relating to the recall process and may wish to explore the reasons for this. Amendment 29 states that, for the constituency process, the power to amend dates is set out in primary legislation and is held by the Presiding Officer, whereas amendment 65 sets out that for regional polls, this detail will instead be found in regulations and the holder of the power to amend the date is not specified.

   We also note that the proposed power to amend the dates under these amendments appears to be broad. The Committee may wish to consider whether the Bill should specify reasonable grounds for changing these dates. This would provide greater clarity for MSPs subject to a recall petition or poll, as well as for voters and electoral administrators.

4. We would welcome clarity in the Bill that the power to make regulations includes the duties of CROs in relation to their role within a regional recall poll. The duties of the CROs will be material to the constituency level delivery of the poll, reporting to the RRO. For example, Article 6(2) of the Scottish Parliament Elections Order 2015 states that ‘the general duty of every CRO and RRO at a Scottish Parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those Rules’.

5. We note that Amendment 75, which provides for the making of regulations in relation to campaign expenditure does not mention requirements for imprints on recall petition or poll campaign material. Imprints help to ensure there is transparency for voters about who is campaigning for their vote or signature. The Committee may wish to consider if a power to make regulations in relation to imprints should be on the face of the Bill, or if it may be appropriate to amend the definition of ‘relevant Scottish elections’ in s.49 of the Scottish Elections (Representation & Reform) Act 2025 to include recall petition and recall poll materials in the imprints regime for Scottish polls.

6. There are some matters related to the role of the Commission not included in the amendments put forward that the Committee may wish to consider.

   Firstly, as highlighted in our response to the initial call for views on the Bill, there is currently no provision or proposed amendment to extend the Electoral Observers

scheme to include recall processes. The Committee may wish to consider if there is merit in extending this scheme, consistent with the approach taken for UK Parliament recall petitions.

Additionally, we note there are currently no proposals for a duty on the Commission to publish reports on how well any recall process was run. We have a statutory duty to publish such reports following scheduled Scottish Parliament and Scottish Local Council elections and following UK Parliament recall petitions. The Committee may wish to consider if this duty should be included in the Bill, and whether a provision requiring administrators running recall petitions or polls to provide us with evidence should be included also.

7. Finally, we note there is no reference to the recall poll question in the amendments. Electors will need to be able to understand the options available to them, and the implications of their choice. We would emphasise the importance of user testing, as set out in our referendum question assessment guidelines, to ensure any question presents the options clearly, simply and neutrally. Amendment 89, which provides for the removal of the provision making Parts 1 and 2 come into force six months after Royal Assent, would allow further time for question testing.

Our role

If the Bill were passed into law, we would work with the Scottish Government, electoral administrators, political parties, campaigners and voters to ensure that everyone who participates in a recall process understands and is prepared for the changes being introduced. We would also provide guidance for electoral administrators and campaigners to ensure they comply with the law.

If you would like to discuss any issues raised in our briefing in more detail, please contact Kelsey Gillies (kgillies@electoralcommission.org.uk) to make arrangements.