

Scottish Elections (Reform) Bill

Financial Memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Scottish Elections (Reform) Bill ("the Bill"), introduced in the Scottish Parliament on 2 September 2019.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 53-EN);
 - a Policy Memorandum (SP Bill 53-PM);
 - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 53-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament. The Financial Memorandum should be read in conjunction with the Policy Memorandum which explains in detail the background to the Bill and the policy intention behind the Bill.

Background

4. The Bill follows the Scotland Act 2016 which devolved additional powers over Scottish Parliament and Scottish local government elections to the Scottish Parliament.
5. The Bill covers a range of reforms and technical changes associated with Scottish Parliament and local government elections:
 - setting a fixed term length of five years for devolved elections;

- increasing flexibility in local government wards, allowing for two- and five-member wards;
- modifying the entitlement to register as an elector before attaining voting age;
- prohibiting people from voting in more than one ward in a Scottish local government election, as is the existing law for Scottish parliamentary elections;
- removing legislative barriers to allowing votes to be cast by electronic means, which may be required depending on the outcome of possible pilots of electronic voting, although further legislation would still be needed to facilitate such pilots;
- reforming arrangements for the postponement of a poll for a Scottish parliamentary general election (e.g. in relation to a sudden event or emergency);
- extending the role of the Electoral Management Board for Scotland to cover Scottish Parliament elections as well as Scottish local government elections;
- Three key issues related to the Electoral Commission:
 - requiring that the Commission is funded by the Scottish Parliament for the work it carries out in relation to devolved elections and that the Commission is accountable to the Scottish Parliament for such work. Scottish Ministers will retain their ability to fund the Commission directly in certain circumstances, such as where the Commission might be asked to carry out independent testing on behalf of the Government;
 - providing the Electoral Commission with the power to make relevant codes of practice for various matters in relation to devolved Scottish elections and that it consults with the Scottish Ministers and the Scottish Parliament where appropriate; and
 - facilitating control by the Electoral Commission of candidates' expenditure and donations to candidates at Scottish local government elections.
- Six key issues related to the Local Government Boundary Commission for Scotland:
 - changing the name of the Commission to “Boundaries Scotland”;
 - changing the time period of reviews of local government wards and councillor numbers to occur on a ‘rolling’ basis, at intervals of not more than 12 years after the previous review of each area;

- changing the parliamentary procedure from ‘negative’ to ‘affirmative’ for statutory instruments which abolish or alter the boundaries of a local government area or ward;
- removing the discretion of the Scottish Ministers as regards implementing reviews of parliamentary and local government boundaries following recommendations made in a report;
- changing the date of the next Scottish Parliament constituency boundary review report; and
- changing Boundaries Scotland’s publication requirements.

6. The purpose of this Financial Memorandum is to set out the best estimates of the administrative and other costs to which provisions of the Bill will give rise, and an indication of the margins of uncertainty in these estimates. It has been developed using the best available evidence, recognising that some of the expense will be incurred through contractual arrangements between external parties and is therefore subject to commercial and contractual considerations.

Policy areas where the Bill is not expected to involve financial implications

7. There are two policy areas where the Bill is not expected to involve financial implications, but where further explanation has been provided: postponement of a Poll and the Electoral Commission.

Postponement of a Poll

8. The formal election period for Scottish Parliament and local government elections starts seven weeks before the day of the poll. In addition, the Scottish Parliament is normally dissolved about 6 weeks before the date of poll, in line with section 2(3)(a) of the Scotland Act 1998, the period being determined in accordance with an Order made by the Scottish Ministers under section 12(1) of that Act.

9. Concerns have been expressed by electoral administrators and the Electoral Commission that there would be a lack of clarity in a situation where an unexpected event occurred in the run up to an election, particularly if that event were expected to affect the running of the poll. This could for example involve a health emergency which made it inadvisable to have large gatherings of people. Such a situation occurred in 2001 when, due to the foot and mouth outbreak, local elections in England and Northern Ireland had to be postponed.

10. A limited power to change the date of a Scottish Parliament poll at short notice already exists. Under section 2(5) of the Scotland Act 1998, the Presiding Officer has the power to propose a new date for the poll at a Scottish Parliament election which is not more than one month before or after the first Thursday in May. This power was originally intended to deal with an unexpected clash of polls (e.g. with a UK Parliament election) by allowing the Presiding Officer to change the date of the Scottish Parliament poll but it could also be used in other situations.

11. The Bill seeks to clarify the law to ensure that the Presiding Officer's power to propose a new date for a poll requirement can be used if the Parliament has already been dissolved in accordance with section 2(3)(a).

12. The Bill's provisions are therefore focused on ensuring that a Scottish Parliament poll can be re-scheduled appropriately, without requiring primary legislation to facilitate a change, perhaps in the form of an emergency Bill. Primary legislation would still be required to change a local authority election date at short notice.

13. The Bill does not increase the likelihood of an election being rescheduled in extraordinary circumstances, but instead simplifies the process for rescheduling a Scottish Parliament election. It is not therefore considered to bear cost implications. There is potentially some scope for a potential saving as the removal of the need for emergency legislation to arrange a new Scottish Parliament poll date would save the expense involved in the production and passage of an emergency Bill, including, potentially, the recall of the Parliament to consider the Bill.

Electoral Commission

14. The Scottish Government does not foresee any additional costs to the Electoral Commission for the changes proposed in this Bill. However, the financing of the Electoral Commission will transfer from the Speaker's Committee of the UK Parliament to the Scottish Parliamentary Corporate Body. On this basis the Scottish Parliamentary Corporate Body will arrange for a transfer of funds from the UK Parliament to cover these costs, meaning an overall net neutral position on Scottish Government or Scottish Parliament finances.

15. In addition, expenditure incurred by the Commission in relation to Scottish local government elections is currently reimbursed by Scottish Ministers. This expenditure will in future be funded by the Scottish Parliament.

16. In the run up to a Scottish Parliament election the Electoral Commission produces voter information materials and conducts advertising. The cost of this is around £1.5 million over two financial years (the financial year preceding and the year of the election). The funding will now flow through the Scottish Parliamentary Corporate Body, but this does not involve additional public spending.

Financial Implications

17. The savings associated with the provisions of the Bill can be separated into the following categories:

- term lengths for Scottish Parliament and local government elections moving from four-year to five-year terms; and
- removing the existing requirement for Boundaries Scotland to publish notices of its recommendations for Scottish Parliament constituencies in local newspapers.

18. The costs associated with the provisions of the Bill can be separated into the following broad categories:

- extending the role of the Electoral Management Board for Scotland to cover Scottish Parliament Elections as well as Scottish local government elections;
- changing the name of the Local Government Boundary Commission for Scotland to “Boundaries Scotland” and affording Boundaries Scotland flexibility to spread out reviews, rather than conducting all reviews together as at present;
- cost that may potentially arise if pilots of electronic voting in local government elections are undertaken in the future, for example, to enable voters with visual impairments to use digital means to cast their vote; and
- allowing young people to register as electors before attaining voting age (i.e. registering as an “attainer” at age 14 before being able to vote at age 16).

19. The other provisions within the Bill will not involve additional costs.

Costs on the Scottish administration

Term lengths

20. Although the Scottish Parliaments elected in 2011 and 2016 were both elected to serve five-year terms these were each the result of one-off

extensions to the normal four-year period set out in existing law, put in place in order to avoid clashes with UK elections. A permanent extension to five-year terms for both Scottish Parliament and local government elections would therefore be likely to result in some cost savings, as, over time, fewer elections will be held. For example, a change to five-year terms would in theory mean two fewer elections (one Scottish Parliament and one local government) over a 20-year period than would be the case if term lengths remained at four years. But this projection is not straightforward, as further one-off adjustments may be required to avoid any future clash of Scottish Parliament, UK Parliament and local government elections.¹ As noted in the Government's Consultation Paper on Electoral Reform², it is well-established that electoral "clashes" between different types of election should be avoided if possible. The holding of separate elections on the same day has been avoided since the 2007 Scottish election which combined Scottish Parliament and local government polls.

21. The Scottish Government met the costs of the Scottish Parliament election held on 5 May 2016 across the 32 council areas totalling £11,912,371. Published costs³ are listed under the headings of: activity at polling stations; postal voting; poll cards; each Count; Returning officer services; and other. This analysis provided an average total cost per elector for the election of £2.90. In addition, £5,631,874 was also required to meet the cost of candidates' "free electoral mailings" at the election.

22. Local government election costs are incurred by each local authority and total costs are not collated centrally, but the approximate cost of administering a local government election would be generally comparable to those for a Scottish Parliament election but with two significant differences: firstly, there would be no cost for candidates' 'free electoral mailings' as these do not apply for local government elections and; secondly, there would be an additional cost of approximately £7 million for electronically counting votes ("eCounting") at a local government election. eCounting does not occur in Scottish Parliament elections.

¹ Although the next UK General Election and the next Scottish local government elections are both scheduled for 2022, it is anticipated that they would occur on different dates that year in order to avoid a clash.

² <https://consult.gov.scot/elections/electoral-reform/>

³

https://www.parliament.scot/S5_Local_Gov/Inquiries/20171213_ReturningOfficers_MinPBToConvener.pdf

23. As a result, an increase in terms lengths for Scottish Parliament and local government elections can be estimated to, in theory, deliver a saving of around £37 million every 20 years. This is made up of £12 million for administration of each of the two elections (one Scottish Parliament and one local government) that would not be held; £6 million for free mailings in respect of the Scottish Parliament election; and £7 million for eCounting in respect of the local government election. In practice any such saving would be highly likely to take longer to accrue, as retaining the status quo could be expected to involve several four-year terms being extended to avoid conflicting election dates.

Electoral Management Board for Scotland

24. The necessity for elections' expenditure varies from year-to-year with the electoral cycle. The Scottish Government funds the Electoral Management Board for Scotland (EMB) in relation to the work it carries out co-ordinating the administration of local government elections in Scotland. Given the expanded role of the EMB in also co-ordinating Scottish Parliament elections the Scottish Government project, based on discussions with the EMB, that an increase in the Board's grant from financial year 2019/20 will be required. This is to reflect an increase in activity in the run-up to the 2021 election which takes into account the extension of the role of the EMB in relation to Scottish Parliament elections proposed in the Bill. This funding will be met from the Scottish Government's elections programme budget.

25. The grant in 2018/19 was £78,700. A grant of £100,600 for 2019/20 has been agreed and an estimate of £115,600 has been made for 2020/21.

Boundaries Scotland and boundary reviews

26. The Local Government Boundary Commission for Scotland (LGBCS) is independent of Scottish Ministers and makes its own decisions around the conduct of reviews of local government administrative areas; local government electoral arrangements; and Scottish Parliament constituencies. The LGBCS is an Advisory Non-departmental Public Body sponsored and wholly funded by the Scottish Government. It is to be renamed Boundaries Scotland under the Bill (and is referred to in this memorandum as "Boundaries Scotland").

27. Boundaries Scotland completed its 5th "Reviews of Electoral Arrangements" across Scottish local authority areas in May 2016 and is expected to complete its 6th Reviews by 2028. Responsibility for reviews

of Scottish Parliament constituency boundaries passed to Boundaries Scotland on 18 May 2017.

28. Costs incurred by LGBCS/Boundaries Scotland generally fall in three areas: staffing and administrative; meetings; and reviews. Projected and actual expenditure is presented on its website.⁴ It should be noted that costs vary significantly depending upon review workload in any given year.

29. The secretariat to Boundaries Scotland is staffed by civil servants employed by the Scottish Government and paid according to Scottish Government salary scales. The secretariat also supports the Boundary Commission for Scotland (BCS), sponsored by the UK Government, which pays a proportion of overall staff costs, accommodation and IT costs. Costs per meeting of Boundaries Scotland are estimated by Boundaries Scotland at £2,750 per meeting, representing Commissioner fees and expenses. Non-staff review costs are principally comprised of the costs of consultation and the cost of final report publication. These costs are not a consequence of the Bill and no additional costs arising from the Bill's provisions relating to Boundaries Scotland have been identified.

30. The existing law requires the current cycle of local government reviews of electoral arrangements to occur by 2028, and for the next cycle to be completed over the period 2036-2040. Under the Bill, it is intended that Boundaries Scotland will be able to spread out reviews of arrangements within each local government area, rather than being obliged (as at present) to conduct all reviews together within one set period of eight to 12 years. Instead, Boundaries Scotland will have 12 years from the date of completion of each review within a local government area to undertake the next review in relation to that area. There will no longer be a minimum period of 8 years between reviews.

31. No change to the frequency of reports for any area is expected as a consequence of removing the eight-year minimum period between reviews of electoral arrangements and the change should be largely cost neutral. It is possible that a different timescale for reviews will involve different ways of working, for example, in conducting more extensive local consultation exercises. However, this is not a direct consequence of removing the eight-year minimum period between boundary reviews.

⁴ http://lgbc-scotland.gov.uk/publications/finance_management_index.asp

32. The Bill enhances the role of the Scottish Parliament in reviewing Boundaries Scotland's recommendations by changing the parliamentary procedure from "negative" to "affirmative" for statutory instruments which abolish or alter the boundaries of a local government area or ward. Future proposed changes to the administrative boundaries or electoral arrangements for local government areas could therefore involve additional costs to Boundaries Scotland. For example, additional fees would be incurred if Boundaries Scotland is required to prepare and give evidence to the Parliament as a result of that enhanced scrutiny.

33. There may be some minor costs associated with rebranding as "Boundaries Scotland". This is expected to include professional services to update its website. This will be met from the existing Boundaries Scotland budget.

34. The Bill will remove the existing requirement for Boundaries Scotland to publish notices of its recommendations for Scottish Parliament constituencies in local newspapers. This resulted in costs of over £550,000 during the previous review period. Publication will now only be required in the Edinburgh Gazette, but Boundaries Scotland may still use paid media where appropriate. The more flexible publication requirement is likely to result in a significant saving over the eight to 12 year review period.

35. There will be no additional costs to local authorities as a result of the Bill's provisions on Boundaries Scotland, as authorities would at present be expected to engage with any review process and that remains unchanged. The Bill will provide additional flexibility to Boundaries Scotland in assessing representation in local authority areas. It will in particular be able to recommend two- and five-member council wards where that would best reflect local circumstances. However, this will not directly affect the total number of councillors for a local government area as such and should not therefore have any financial implications.

36. The removal of existing publication requirements in local newspapers is expected to result in savings of up to £500,000 every 12 years. There would be additional costs incurred by Boundaries Scotland as a result of enhanced parliamentary scrutiny, which would likely amount to additional costs of no more than £1,300 per evidence session.

Electronic Voting

37. The Bill's enabling provisions on electronic voting will not of themselves have any direct financial consequences. The Bill removes

various legislative barriers to allowing votes to be cast by electronic means, which may be required depending on the outcome of pilots that include some form of electronic voting or other digital processing to be undertaken at a future date, should any such pilot be proposed. Pilots will only take place when funding has been approved through the Scottish Government's budget process. The possibility of pilots of electronic voting was part of the Government's consultation on electoral reform undertaken over 2017-18. The consultation also sought views on improving the accessibility of voting. While there are no firm plans for pilots, the Government is considering whether some form of trials or pilots, which are initially likely to focus on improving the accessibility of voting for people with disabilities, might take place in 2020 or in subsequent years. It is likely that exploratory trials would take place prior to any formal pilot.

38. Secondary legislation (under the existing order-making power in section 5 of the Scottish Local Government (Elections) Act 2002) will be required where an electronic voting pilot is proposed for a local government election. The financial impact of each specific pilot would be set out along with the relevant Order. The cost of an individual pilot undertaken with one local authority could range from £5,000 for e.g. a pilot of electronic poll cards aimed at making these accessible for people with sight loss, to £30,000 for e.g. a pilot of electronic voting to enable people with sight loss to vote digitally. Most or all of any net additional costs to a local authority associated with any pilot would be met by the Scottish Government. Additional costs are likely to be incurred by the Scottish Government for the purchase or development and subsequent testing of any required software; for training of administrators; and for publicity and communication with electors. The scale of these costs would depend on the nature of the pilot but could be in the range £50,000 for a small pilot of e.g. electronic poll cards, to £500,000 for e.g. development of an electronic voting solution for people with sight loss.

39. Before any pilots could take place, funding would have to be allocated by the Scottish Government: the provisions do not require pilots to take place.

Attainment Age

40. Under the Representation of the People Act 1983, the costs incurred by Electoral Registration Officers (EROs) in the performance of their statutory functions are paid by local authorities from funds made available through the local government settlement.

41. EROs use electoral management software to create and maintain their registers. Adaptations to the software will be required to ensure that the systems are able to implement the provisions of the Bill while simultaneously retaining the functionality necessary for other elections.

42. The creation and maintenance of the electoral register (including any required software) is the responsibility of each local ERO and they hold the contracts for the software. Three commercially developed software systems are in use across Scotland, and each will need to be updated separately. In addition, the Dumfries and Galloway ERO currently operates its own bespoke system but have tendered to replace this with a commercial solution. The systems are different, and support a varying number of EROs, so development costs are different for each system. Final costs will not be known until contractual agreements to make the required changes have been reached with each supplier.

43. The Financial Memorandum⁵ to the Scottish Elections (Franchise and Representation) Bill set out an estimate by EROs of the total costs involved in adapting the systems as a result of changes to the electoral franchise to be in the region of £150,000 to £250,000 for the systems. The Memorandum explained that the Scottish Government will work with EROs and their suppliers and monitoring of the implementation schedule of work and associated costs. It is considered that any changes in wording required as a result of the Scottish Elections (Reform) Bill will be marginal and can be included within the more substantial changes required for the extension of the franchise and can be included in this process without need for separate funding to be set out in this memorandum.

Costs on local authorities

44. The costs of electoral registration in Scotland are normally met through the local government finance settlement, based on an area's share of dwellings register for council tax. COSLA has been consulted on the proposed reforms contained within the Bill. Potential savings for local authorities in relation to the change in election term lengths are discussed in paragraphs 20 to 23.

45. The Scottish Government does not foresee any additional processing costs for EROs relating to the change in age of attainment.

⁵ <https://www.parliament.scot/parliamentarybusiness/Bills/112098.aspx>

46. As noted at paragraph 35 the Bill will provide additional flexibility to Boundaries Scotland to recommend two- and five-member council wards where that would best reflect local circumstances. It is not envisaged that the total number of councillors for a local government area would change as a result of a Boundaries Scotland review.

Costs on other bodies, individuals and businesses

47. There are no obligations imposed on other bodies, individuals or businesses by this Bill which would result in costs being incur.

This document relates to the Scottish Elections (Reform) Bill (SP Bill 53) as introduced in the Scottish Parliament on 2 September 2019

Summary table of estimated costs arising due to Bill

Cost or (Saving) Per Year £'000								Notes	Paragraph
Organisation	Category	Resource or Capital	Recurring or Set Up Cost/Saving	2019/20	2020/21	2021/22	Future Years		
Local Government	Term Lengths	Resource	Recurring				(18,900)	Estimated saving every 20 years	20-23
Scottish Government	Term Lengths	Resource	Recurring				(17,900)	Estimated saving every 20 years	20-23
Scottish Government	Electoral Management Board	Resource	Recurring			20	20		24-25
LGBCS / Boundaries Scotland	Commissioner appearance fees	Resource	Recurring				c.1.3	Depends on number of sessions and days of evidence	26-36
LGBCS / Boundaries Scotland	Advertising	Resource	Recurring				(c.500)	Estimated saving every 12 years (advertising)	26-36
Scottish Government	Electronic Voting	Resource	Set up				n/a	any particular pilot could cost in the region of 5-500, but not a direct result of the Bill	37-39
Electoral Registration Officers	Attainment Age	Resource	Set up				n/a	Expected to be covered by the 150-250 figure set out in the Financial Memorandum for the Scottish Elections (Franchise and Representation) Bill	40-43

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