

Scottish Elections (Representation and Reform) Bill

2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 29 to 50

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 29

Ross Greer

70 In section 29, page 18, line 7, at end insert—

<() Without prejudice to the generality of subsections (1) and (2) activities funded under this section may include automatic voter registration at educational establishments.>

Ross Greer

71 In section 29, page 18, line 11, at end insert—

<() In considering whether to provide financial assistance under subsection (3), the Scottish Ministers must have regard to the impact of the activity or activities in relation to persons with protected characteristics listed in section 4 of the Equality Act 2010.>

After section 29

Jamie Hepburn

44 After section 29, insert—

<Scottish Ministers’ power to make provision about elections under the Local Governance (Scotland) Act 2004

(1) The Local Governance (Scotland) Act 2004 is modified as follows.

(2) In section 3 (power to make further provision about local government elections), after subsection (3) insert—

“(3A) Provision made by such an order by virtue of subsection (1)(a) may include provision which—

(a) refers to a document of a particular description as is published from time to time by such person as the order may specify, and

(b) gives effect to such a document which meets the conditions or criteria (if any) as the order may specify.”>

Jeremy Balfour

54 After section 29, insert—

<Access to Elected Office Fund

- (1) The Scottish Ministers must maintain a fund—
 - (a) that is named the Access to Elected Office Fund,
 - (b) that provides financial support to disabled persons (within the meaning of section 6(2) of the Equality Act 2010) participating as candidates in—
 - (i) a Scottish Parliamentary general election,
 - (ii) an election held under section 9 of the Scotland Act 1998 (constituency vacancies), or
 - (iii) a local government election (within the meaning of section 204(1) of the Representation of the People Act 1983).
- (2) The Scottish Ministers may from time to time make payments into the Fund of such amounts as they may determine.
- (3) The Scottish Ministers must make arrangements—
 - (a) about the procedure or rules for making payments out of the Fund to disabled persons who are candidates at an election mentioned in paragraphs (i) to (iii) of subsection (1)(b),
 - (b) designating a person to be responsible to administer the making of payments in accordance with that procedure or rules.
- (4) The arrangements under subsection (3)(a) must include provision that payments are only to be made to candidates to the extent that they are reasonably attributable to the candidate having a physical or mental impairment that has a substantial and long-term adverse effect on the candidate's ability to carry out normal day-to-day activities.
- (5) The Scottish Ministers may only designate a person in accordance with subsection (3)(b) if a draft of the designation has been laid before, and approved by resolution of, the Scottish Parliament.
- (6) The duties mentioned in subsections (1) and (3) may be fulfilled by the continuation of any existing fund which is established and maintained administratively by the Scottish Ministers, including continuing with the administrative arrangements for that fund and with the person responsible for administering that fund (without the need for designation under subsection (5)).
- (7) As soon as reasonably practicable after each ordinary general election for membership of the Parliament (see section 2 of the Scotland Act 1998) and each ordinary local election (within the meaning of section 43(1C) of the Representation of the People Act 1983), the Scottish Ministers must—
 - (a) prepare a report on the operation of the Fund,
 - (b) publish the report in such manner as they consider appropriate.
- (8) Nothing in this section affects any other power of the Scottish Ministers to make arrangements for or in connection with providing financial support to disabled persons participating as candidates at any election mentioned in paragraphs (i) to (iii) of subsection (1)(b).>

Section 38

Jamie Hepburn

- 45 In section 38, page 23, line 14 leave out first <under>

Section 41

Jamie Hepburn

- 46 In section 41, page 24, line 36, leave out <or a constable>

Jamie Hepburn

- 47 In section 41, page 24, line 38, leave out <or a constable>

Section 45

Ross Greer

- 72 In section 45, page 26, line 25, at end insert—

<() In section 14 (duty and power to review local government areas), after subsection (4) insert—

“(5) Any review under this section must be completed no less than 18 months before the date of the next normally scheduled election.”.>

Ross Greer

- 73 In section 45, page 26, line 26, after <arrangements),> insert <—

()>

Ross Greer

- 74 In section 45, page 26, line 27, at end insert—

<() after subsection (3), insert—

“(4) Any proposals under subsection (1) must be made no less than 18 months before the date of the next normally scheduled election.”.>

Before section 46

Bob Doris

- 75 Before section 46, insert—

<Education about electoral and democratic systems

- (1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.
- (2) In section 13 (education about electoral and democratic systems), after subsection (1)(a) insert—

“(aa) marking of ballot papers in any election mentioned in section 9A(5A)(a) to (c).”>

Bob Doris

76 Before section 46, insert—

<Electoral Commission’s annual report: spoilt ballot papers

(1) Each report by the Electoral Commission under paragraph 20A of schedule 1 of the Political Parties, Elections and Referendums Act 2000 (“PPERA”) must contain information about what steps the Electoral Commission has taken to reduce the number of spoilt ballot papers in devolved Scottish elections.

(2) In this section—

“devolved Scottish elections” means any election mentioned in section 9A(5A)(a) to (c) of PERA,

“spoilt ballot paper” means a ballot paper that the voter has inadvertently dealt with in such a manner that it cannot be conveniently used as a ballot paper.>

Section 46

Bob Doris

77 In section 46, page 27, line 24, at end insert—

<(1A) A plan under sub-paragraph (1) must include how the Commission will aim to reduce the number of spoilt ballot papers at the elections mentioned in sub-paragraph (9)(a) during the period.

(1B) In sub-paragraph (1A) a “spoilt ballot paper” means a ballot paper that the voter has inadvertently dealt with in such a manner that it cannot be conveniently used as a ballot paper.>

Jamie Hepburn

48 In section 46, page 28, line 5, leave out <code> and insert <plan>

After section 46

Bob Doris

55 After section 46, insert—

<Reports on promotion of public awareness about elections

(1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.

(2) In section 5 (reports on elections and referendums)—

(a) after subsection (2D) insert—

“(2DA) Subsections (2DB) and (2DC) apply where a report under this section relates to one of the following elections—

(a) a Scottish Parliamentary general election, or

(b) an ordinary election of councillors for local government areas in Scotland.

(2DB) The report must include a description of the steps taken by—

(a) the Commission in performing their functions under section 13(1), and

(b) returning officers,

to promote public awareness about the election and how to vote in it (including, in particular, how to fill in a ballot paper).

(2DC) The report may also include a description of steps taken by any other person to promote public awareness about the election and how to vote in it.”,

(b) in subsection (2E), for “subsection (2D)” substitute “subsections (2D) and (2DB)”.>

Bob Doris

56 After section 46, insert—

<Electoral Commission strategy: spoilt ballot papers

(1) The Electoral Commission must, before each ordinary local election—

(a) prepare a strategy for reducing the number of spoilt ballot papers at the election, and

(b) publish the strategy in such manner as the Commission thinks fit.

(2) In this section—

“ordinary local election” has the meaning given in section 43(1C) of the Representation of the People Act 1983,

“spoilt ballot paper” means a ballot paper that the voter has inadvertently dealt with in such a manner that it cannot be conveniently used as a ballot paper.>

Section 47

Jamie Hepburn

49 In section 47, page 28, line 35, after <Scotland> insert <—

<()>

Jamie Hepburn

50 In section 47, page 28, line 38, at end insert—

<() after subsection (3) insert—

“(4) The schedule makes further provision about the status, membership, etc. of the Board and about other administrative matters in connection with the Board.”.>

Jamie Hepburn

51 In section 47, page 28, line 39 leave out subsections (3) to (5) and insert—

<(3A) Sections 2 to 4 are repealed.

(3B) After section 7, insert—

“Planning and reporting on the Board’s functions

7A Strategic plans

- (1) The Board must, at least 6 months before the start of a 5 year period, submit to the Parliamentary corporation a plan (referred to in this section as a “strategic plan”) setting out, for that 5 year period—
 - (a) the Board’s strategic and policy priorities relating to those of its functions mentioned in section 1(3),
 - (b) how it proposes to achieve them,
 - (c) timetables for doing so, and
 - (d) estimates of the costs of doing so.
- (2) The Parliamentary corporation—
 - (a) must examine each strategic plan submitted to it,
 - (b) must decide whether it is satisfied with the plan, and
 - (c) if it is not so satisfied, may recommend such modifications to the plan as it considers appropriate.
- (3) Before deciding whether it is so satisfied or making any such recommendations, the Parliamentary corporation may provide a draft of the strategic plan and invite, and (if any are given) consider, comments on it from—
 - (a) a committee of the Scottish Parliament, and
 - (b) such other persons as the Parliamentary corporation consider appropriate.
- (4) The Parliamentary corporation must, as soon as reasonably practicable after concluding its examination and making its recommendations (if any) under subsection (2), report to the Board on its findings and recommendations.
- (5) After the Parliamentary corporation has reported to the Board under subsection (4), the Board must—
 - (a) make whatever modifications to the draft strategic plan the Board consider necessary in light of the Parliamentary corporation’s findings and recommendations,
 - (b) lay the plan before the Scottish Parliament, and
 - (c) if the Board do not follow any of the Parliamentary corporation’s recommendations for modifications to the plan under this section, lay before the Scottish Parliament a document describing its reasons for so doing.
- (6) The Board may, at any time during the 5 year period to which a plan relates, review the strategic plan for that period and submit a revised plan to the Parliamentary corporation setting out the matters mentioned in subsection (1).
- (7) Subsections (2) to (5) apply to a revised plan submitted under subsection (6) as they apply to a strategic plan submitted under subsection (1).

- (8) In this section, “5 year period” means each period of 5 years beginning on the first day of the financial year following each ordinary local election (within the meaning of section 43(1C) of the Representation of the People Act 1983).

7B Reports requested by the Scottish Ministers

- (1) The Scottish Ministers may request that the Board—
- (a) review, and
 - (b) submit a report to them on,
- any matter relating to the Board’s functions mentioned in section 1(3).
- (2) Before making a request under subsection (1), the Scottish Ministers must consult the Parliamentary corporation.
- (3) The Board must comply with a request under subsection (1) within such time as the Scottish Ministers may request, or such later time as Ministers and the Board may agree.
- (4) The Board may, after submitting a report under this section, publish the report in such manner as it considers appropriate.”.

(3C) Section 8 and the cross heading immediately preceding it are repealed.

(3D) In section 9 (interpretation of Part 1)—

(a) after “Part” insert “and in the schedule”,

(b) after the definition of “electoral registration officer”, insert—

““former depute returning officer” means an individual who no longer holds the office but who was previously—

- (a) a depute returning officer, or
- (b) a RUK depute returning officer,

“former electoral registration officer” means an individual who no longer holds the office but who was previously—

- (a) an electoral registration officer, or
- (b) a RUK electoral registration officer,

“former returning officer” means an individual who no longer holds the office but who was previously—

- (a) a returning officer, or
- (b) a RUK returning officer,”

(c) after the definition of “local government election”, insert—

““Parliamentary corporation” means the Scottish Parliamentary Corporate Body,”

(d) after the definition of “returning officer”, insert—

““RUK depute returning officer” means a person appointed as a depute section 35(4) of the 1983 Act,

“RUK electoral registration officer” means an officer appointed under, or holding office in accordance with, section 8(2), (2A) or (4) of the 1983 Act,

“RUK returning officer” means an officer holding office in accordance with section 24 or 26 of the 1983 Act,” and

(e) in the section title, after “Part 1” insert “and the schedule”.

(3E) After section 22 (short title), insert as a schedule—

“SCHEDULE
(introduced by section 1(4))

ELECTORAL MANAGEMENT BOARD FOR SCOTLAND

Status

- 1 (1) The Board, its members and staff—
 - (a) are not servants or agents of the Crown, and
 - (b) have no status, immunity or privilege of the Crown.
- (2) The Board’s property is not property of, or property held on behalf of, the Crown.

Membership

- 2 (1) The Board is to consist of—
 - (a) a convener, who must be either—
 - (i) a returning officer,
 - (ii) a RUK returning officer, or
 - (iii) a former returning officer, and
 - (b) 8 other members of whom—
 - (i) 5 are to be from the RO category, and
 - (ii) 3 are to be from the ERO category.
- (2) In this schedule—
 - (a) a person is part of “the RO category” if the person is—
 - (i) a returning officer,
 - (ii) a depute returning officer,
 - (iii) a RUK returning officer,
 - (iv) a RUK depute returning officer,
 - (v) a former returning officer,
 - (vi) a former depute returning officer, and
 - (b) a person is part of “the ERO category” if the person is—
 - (i) an electoral registration officer,
 - (ii) a RUK electoral registration officer, or

- (iii) a former electoral registration officer.
- (3) The convener is to be appointed by the Parliamentary corporation on the nomination of the Scottish Parliament.
- (4) The convener is to appoint the other members.
- (5) When appointing members, the convener is to have regard to the desirability of the membership taken as a whole having a broad range of experience in relation to—
 - (a) different local authority areas (including different kinds of areas) throughout Scotland, and
 - (b) the different constituencies and regions provided for Scottish parliamentary elections by schedule 1 of the Scotland Act 1998 (including different kinds of constituencies and regions).
- (6) A person may not be appointed as a member of the Board if that person has a relevant connection to a political party.
- (7) In this schedule, a person has “a relevant connection to a political party” if that person would be ineligible for appointment as a member of the staff of the Electoral Commission in accordance with—
 - (a) paragraph 11A(1)(a) or (b) of schedule 1 of the Political Parties, Elections and Referendums Act 2000, or
 - (b) paragraph 11A(1)(c) of that schedule, taking the relevant period mentioned there to be the last 12 months.

Depute conveners

- 3 (1) The convener may, from the members of the Board who are in the RO category—
 - (a) appoint a depute convener to act for such period, not exceeding 5 years, as the convener, at the time of the appointment, may determine, and
 - (b) reappoint that depute convener for one further period, not exceeding 5 years, as the convener, at the time of the reappointment, may determine.
- (2) The convener may, from any other of the members of the Board—
 - (a) appoint a second depute convener to act for such period, not exceeding 5 years, as the convener, at the time of the appointment, may determine, and
 - (b) reappoint that second depute convener for one further period, not exceeding 5 years, as the convener, at the time of the reappointment, may determine.
- (3) A depute convener appointed under sub-paragraph (1) may carry out any of the convener’s relevant functions where—
 - (a) the office of convener is vacant, or
 - (b) the person holding the office is for any reason unable to perform the convener’s functions.

- (4) In sub-paragraph (3) the convener's relevant functions are—
 - (a) the convener's functions under this Act, and
 - (b) the convener's functions under section 43A of the Representation of the People Act 1983 (in relation to fixing another day for the holding of the poll at an ordinary local election).
- (5) A second depute convener appointed under sub-paragraph (2) may perform such of the convener's functions under this Act (and to such extent) as the convener may determine, but may not issue directions under sections 4A, 5, 5A or 6.

Duration of appointment

- 4 (1) The convener—
 - (a) holds office for such period, not exceeding 5 years, as the Parliamentary corporation, at the time of appointment, may determine, and
 - (b) may be reappointed for one further period, not exceeding 5 years, as the Parliamentary corporation at the time of the reappointment, may determine.
- (2) Other members of the Board—
 - (a) may be appointed for such period, not exceeding 5 years, as the Parliamentary corporation, at the time of appointment, may determine, and
 - (b) may be reappointed to the Board (once or more) for such further period, not exceeding 5 years, as the Parliamentary corporation at the time of the reappointment, may determine.
- (3) An appointment as depute convener under paragraph 3(1) or (2) ends when the person appointed is no longer a member of the Board.

Early termination of membership

- 5 (1) The convener may be relieved of office by the Parliamentary corporation at the request of the convener.
- (2) The other members may, by notice in writing to the convener, resign office as a member.
- (3) The convener may be removed from office by the Parliamentary corporation—
 - (a) if—
 - (i) the Parliamentary corporation is satisfied that the convener has breached the terms and conditions of office and the Parliament resolves that the convener should be removed from office for that breach, or
 - (ii) the Parliament resolves that it has lost confidence in the convener's willingness, suitability or ability to perform the functions of the convener,

and, in either case, the resolution is voted for by a number of members not fewer than two thirds of the total number of seats for members of the Parliament, or

- (b) if the convener becomes connected to a political party.
- (4) Any other member may be removed from office by the convener if—
- (a) the member has been absent, without reasonable excuse from meetings of the Board for a period of longer than 6 consecutive months, or
 - (b) the convener considers that the member is—
 - (i) unable to perform the functions of a member, or
 - (ii) unsuitable to continue as a member, or
 - (c) the member becomes connected to a political party.
- (5) In this schedule, a person “becomes connected to a political party” on the occurrence, in relation to that person, of such an event as is mentioned in any of paragraphs (a) to (ca) of paragraph 3(3) of schedule 1 of the Political Parties, Elections and Referendums Act 2000.

Remuneration, allowances and expenses of members

- 6 The Board may, with the approval of the Parliamentary corporation, pay to its members such remuneration, pensions, allowances and expenses as it may determine.

Staff

- 7 (1) The Board may appoint staff.
- (2) The staff are to be employed on terms and conditions as may, with the approval of the Parliamentary corporation, be determined by the Board.
 - (3) A person may not be appointed as a member of the staff of the Board if the person—
 - (a) is a member of the Board, or
 - (b) has a relevant connection to a political party.
 - (4) The appointment of any member of the staff of the Board is to terminate if the person becomes connected to a political party.

Procedure etc.

- 8 (1) It is for the Board to regulate its own procedure (and quorum).
- (2) The convener may (with the agreement of the other members of the Board) invite a person to attend a meeting of the Board for the purpose of providing advice or otherwise assisting the Board in carrying out its functions.

Powers of the Board and validity of actions

- 9 (1) The Board may do anything which appears to it—
- (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
 - (b) be otherwise conducive to the performance of its functions.
- (2) The validity of anything done by the Board is not affected by—
- (a) a vacancy in membership,
 - (b) a defect in the appointment of a member,
 - (c) the removal or disqualification of a person as a member after appointment.

Budget

- 10 (1) The Board must, before the start of each financial year, prepare proposals for the Board's use of resources and expenditure during the year (a "budget") and, by such date as the Parliamentary corporation determines, send the budget to the Parliamentary corporation for approval.
- (2) The Board may, in the course of a financial year, prepare a revised budget for the remainder of the year and send it to the Parliamentary corporation for approval.
- (3) In preparing a budget or revised budget, the Board must ensure that the resources of the Board will be used economically, efficiently and effectively.
- (4) A budget or revised budget must contain a statement that the Board has complied with the duty under sub-paragraph (3).

Financial provision

- 11 (1) The Parliamentary corporation is to pay—
- (a) the salary and allowances of the convener and any depute convener,
 - (b) any expenditure properly incurred by the Board in the exercise of the functions of the Board.
- (2) Sub-paragraph (1)(b) does not require the Parliamentary corporation to pay any expenses which exceed or are otherwise not covered by a budget or, as the case may be, a revised budget approved under paragraph 10.
- (3) However, the Parliamentary corporation may pay those expenses.
- (4) The Parliamentary corporation is to indemnify the Board in respect of any liabilities incurred in the exercise of the functions of the Board.

Accountable officer

- 12 (1) The Parliamentary corporation is to designate the convener, a member of the Board, or a member of the Board's staff as the accountable officer for the purposes of this paragraph.

- (2) The functions of the accountable officer are—
 - (a) those specified in sub-paragraph (3), and
 - (b) where the accountable officer is not the convener, the duty set out in sub-paragraph (4),and the accountable officer is answerable to the Parliament for the exercise of those functions.
- (3) The functions referred to in sub-paragraph (2)(a) are—
 - (a) signing the accounts of the expenditure and receipts of the Board,
 - (b) ensuring the propriety and regularity of the finances of the Board,
 - (c) ensuring that the resources of the Board are used economically, efficiently and effectively.
- (4) The duty referred to in sub-paragraph (2)(b) is a duty, where the accountable officer is required to act in some way but considers that to do so would be inconsistent with the proper performance of the functions specified in sub-paragraph (3), to—
 - (a) obtain written authority from the convener before taking the action, and
 - (b) send a copy of that authority as soon as possible to the Auditor General for Scotland.

Accounts and audit

- 13 (1) The Board must—
 - (a) keep proper accounts and accounting records, and
 - (b) prepare annual accounts in respect of each financial year.
- (2) The Board must send a copy of the annual accounts to the Auditor General for Scotland for auditing.

Annual report

- 14 (1) The convener must, prepare a report on the carrying out of the Board's functions during each financial year.
- (2) After securing the Board's approval of the report, the convener must—
 - (a) lay the report before the Scottish Parliament, and
 - (b) send a copy of the report to the Scottish Ministers.
- (3) The report must be laid before the Parliament within 7 months of the end of each financial year.”.

(3F) In section 7(2) of the Referendums (Scotland) Act 2020 (chief counting officer), after “section 2 of” insert “, or paragraph 2 of the schedule of,”.>

After section 47

Jamie Hepburn

52 After section 47, insert—

<Application of public bodies legislation to the Electoral Management Board for Scotland

- (1) In the Freedom of Information (Scotland) Act 2002, in Part 7 of schedule 1 (others), after paragraph 63A insert—

“63B Electoral Management Board for Scotland.”
- (2) In the Public Services Reform (Scotland) Act 2010—
 - (a) In schedule 5, after the entry relating to David MacBrayne Ltd insert—

“Electoral Management Board for Scotland”.
 - (b) In schedule 8, after the entry relating to the Drinking Water Quality Regulator for Scotland insert—

“Electoral Management Board for Scotland”.
- (3) In schedule 1 of the Gender Representation on Public Boards (Scotland) Act 2018, after the entry relating to David MacBrayne Limited (company number SC015304) insert—

“Electoral Management Board for Scotland”.>

Jamie Hepburn

53 After section 47, insert—

<Transitional provision: membership of the Electoral Management Board for Scotland

- (1) A person who holds the office of convener of the Electoral Management Board for Scotland immediately before the coming into force of the amendments made by section 47(3E) continues to hold that office.
- (2) The duration of that person’s appointment is to be calculated as if that person was appointed as convener for the first time for a period of 5 years on the day that the amendments made by section 47(3E) came into force.
- (3) Any other person who is a member of the Board immediately before the coming into force of the amendments made by section 47(3E) continues as a member of the Board.
- (4) The duration of the appointment of a person mentioned in subsection (3) is to be calculated as if that person was appointed as a member for a period of 5 years on the day that the amendments made by section 47(3E) came into force.
- (5) Accordingly, a person continuing as a convener or as a member of the Electoral Management Board for Scotland in accordance with this section—
 - (a) remains eligible to be reappointed in accordance with paragraph 4 of the schedule of the Local Electoral Administration (Scotland) Act 2011, but
 - (b) may be removed from office in accordance with paragraph 5 of that schedule.>

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