



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

DEVOLUTION (FURTHER POWERS) COMMITTEE

Thursday 24 September 2015

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DEVOLUTION (FURTHER POWERS) COMMITTEE
23rd Meeting 2015, Session 4

CONVENER

*Bruce Crawford (Stirling) (SNP)

DEPUTY CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh Northern and Leith) (Lab)

*Linda Fabiani (East Kilbride) (SNP)

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

*Alex Johnstone (North East Scotland) (Con)

*Alison Johnstone (Lothian) (Green)

*Stewart Maxwell (West Scotland) (SNP)

*Mark McDonald (Aberdeen Donside) (SNP)

*Stuart McMillan (West Scotland) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Joe FitzPatrick (Minister for Parliamentary Business)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Devolution (Further Powers) Committee

Thursday 24 September 2015

[The Convener opened the meeting at 09:31]

Subordinate Legislation

Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 [Draft]

The Convener (Bruce Crawford): Good morning, colleagues. I remind members to switch their mobile phones off, and I welcome everyone to the Devolution (Further Powers) Committee's 23rd meeting in 2015.

Agenda item 1 concerns the draft Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015. To assist us in considering the order, we have two witnesses: Joe FitzPatrick, the Minister for Parliamentary Business; and Roddy Angus, a policy officer in the elections and constitution division of the Scottish Government.

Minister, would you like to make an opening statement?

The Minister for Parliamentary Business (Joe FitzPatrick): Good morning and thank you for the opportunity to set out the Government's view on the order that is before the committee. The order devolves to the Scottish Parliament legislative competence to change the date of the Scottish Parliament election that is scheduled to take place in May 2020.

When the Fixed-term Parliaments Act 2011 was passed at Westminster, it provided that the next general election for membership of the United Kingdom Parliament would take place on 7 May 2015 and that subsequent general elections would take place on the first Thursday in May, every fifth year. That same act, with the Scottish Parliament's agreement, provided that the next Scottish Parliament election would be held on 5 May 2016.

The Scotland Act 1998 provides for the poll at Scottish Parliament ordinary general elections to be held on the first Thursday in May, every fourth year. The combined effect of the two acts is that, as things stand, there would be general elections to the UK and Scottish Parliaments on 7 May 2020.

Clearly, such a clash of elections is undesirable and, as set out in the Presiding Officer's letter of 21 May 2015 to the Secretary of State for Scotland, party leaders in Scotland agreed that an

alternative date for the Scottish parliamentary elections should be set. That view is supported by the Scottish Government. There is also universal agreement that voters should know the length of the parliamentary session that they are voting for before they go to the polls in May 2016.

If the Scottish Parliament is to legislate in advance of the May 2016 election, the power to do so needs to be devolved now. Devolving that power is exactly what the order will do.

The order is made under section 30 of the Scotland Act 1998, which provides a mechanism whereby schedule 4 or schedule 5 to that act can be modified by an order in council, subject to the agreement of the UK and Scottish Parliaments. The order amends schedules 4 and 5.

Schedule 4 to the 1998 act lists enactments that are protected from modification by the Scottish Parliament. Much of the act is included in that list. The order will amend schedule 4 to allow an act of the Scottish Parliament to modify section 2(2) in relation to the first Scottish Parliament ordinary general election after 2016.

Schedule 5 to the 1998 act lists the matters that are reserved to the UK Parliament. Among other things, elections for membership of the Scottish Parliament are reserved. In order that the Scottish Parliament can determine the day of the poll at the first Scottish Parliament ordinary general election after 2016, the order will amend schedule 5 to provide that that matter is no longer reserved. Those combined amendments will ensure that the Scottish Parliament has the power to determine the date of the first Scottish Parliament ordinary general election to be held after next May's election.

The order also amends section 2 of the 1998 act in connection with the amendments to schedules 4 and 5. The order places certain limitations on the day that can be chosen. It will prevent the day of the poll that is determined by the Scottish Parliament from being the same as the day of the poll at a UK Parliament general election—other than an early parliamentary general election, which clearly could not be predicted—or a European Parliament general election or an ordinary local government election in Scotland. Those limitations are in line with the recommendation in the Smith commission agreement and are consistent with the Gould recommendations.

That is an outline of the order, which has already been approved by both houses of the UK Parliament. How the powers that the order will devolve are exercised will be a matter for Parliament to consider in a future bill.

In her statement on the Scottish Government's programme for government, the First Minister

announced that a Scottish Parliament election dates bill will be introduced in the Scottish Parliament once the order has been approved by Her Majesty in council. That bill will propose a five-year term for the Scottish Parliament following next year's election, which will move the Scottish Parliament general election to May 2021. The Northern Ireland Assembly and Welsh Assembly general elections that would have been held in May 2020 have already been moved to 2021.

Moving the Scottish Parliament election to the first Thursday in May 2021 would mean that it clashed with the local government elections that are scheduled for the same date. We are seeking the views of the Convention of Scottish Local Authorities on what action might be taken to address that.

One option would be to move the local government elections to 2022. That would mean a five-year term for the local government councillors who are elected in May 2017 and would replicate the similar one-year extension to the current local government term. Those are matters that the Parliament will consider when the bill is introduced.

I hope that the committee will agree that the order is a sensible and pragmatic solution that will allow the Scottish Parliament to change the date of the Scottish Parliament election that is currently scheduled for May 2020 and thereby avoid a clash with the UK general election.

I am happy to answer any questions on the order.

The Convener: Do members have any questions?

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I am sure that no one will object to the order, but I have a question, which might be the result of my not understanding what you said. Are you saying that the order affects only one election?

Joe FitzPatrick: Yes.

Malcolm Chisholm: I wonder why there is not a power to determine the date of all future elections, because I can see the same situation arising over and over again.

Joe FitzPatrick: The further powers are dealt with in the Smith agreement and are being looked at in that context. The order relates to only one election, which has to be dealt with now. We could not wait for the outcome of the discussions on Smith.

Tavish Scott (Shetland Islands) (LD): I agree with the point that Malcolm Chisholm made. Because the dates of the other elections that you mentioned—the European, Westminster and local

government elections—are now fixed for ever more, as it were, has the Scottish Government given any thought to how the Scottish elections will fit into that timetable?

Joe FitzPatrick: When the order is passed, we will have competence for the one election after the next election. Parliament will discuss that in considering the forthcoming bill. When the additional powers come, it will be for Parliament to engage in the deliberations at that point. However, I think that there is an argument for five-year terms.

The Convener: As there are no further questions, I ask the minister to move the motion to recommend approval of the draft order.

Motion moved,

That the Devolution (Further Powers) Committee recommends that the Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 [draft] be approved.—[*Joe FitzPatrick.*]

Motion agreed to.

The Convener: Do members agree to delegate to Duncan McNeil and me responsibility for writing a short report on the recommendation to Parliament?

Members indicated agreement.

Decision on Taking Business in Private

09:39

The Convener: Under item 3, do members agree to consider the draft report on parliamentary oversight of intergovernmental relations in private at future meetings?

Members indicated agreement.

Meeting closed at 09:39.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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