

## Parliamentary Voting System and Constituencies Bill Committee Stage

18/19/20 October 2010

Please note that this briefing paper comments on certain aspects of the Bill, or amendments, which the Commission believes raise significant issues of workability or policy. The note does not comment on every amendment tabled, and the absence of comment on an amendment does not imply that we support it. Should any further amendments be published prior to Days 2, 3 or 4 of Committee Stage that require comment, we will issue an additional briefing.

### PART 1 - VOTING SYSTEM FOR PARLIAMENTARY ELECTIONS

#### Schedule 1 – Further provisions about the referendum

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##### Referendum Period

**Amendments 5 and 6** relate to the referendum period during which campaigners may register with the Electoral Commission, and campaign spending is regulated. They require the Government to consult with the Commission after the Bill receives Royal Assent as to “an appropriate period for fair conduct of the referendum”, and to set the date of the referendum itself and the start of the referendum period accordingly.

We do not believe that a longer referendum period than the Bill currently provides for is technically necessary. Provided the Bill receives Royal Assent in time to allow a referendum period of at least 10 weeks, there will be adequate time for the Commission to register campaigners and designate lead campaigning organisations, and for campaigners to put the arguments to voters.

It is for Parliament to decide the length of the period during which campaign spending should be regulated. We noted in our Second Reading briefing that the Bill allows campaigners to spend as much as they wish in the period before Royal Assent, and that we will monitor the effect of the spending limit provisions and report on them after the referendum.

## Role of the Electoral Commission

**Amendment 136** seeks to place a duty on the Electoral Commission to secure the prior agreement of the Speaker's Committee to any proposed work to promote public awareness of the referendum. The Commission does not believe that this amendment is required as it has already presented its plans for public awareness, and the costs associated with it, to the Speaker's Committee for their agreement.

**Amendment 247** would require the Electoral Commission to obtain the agreement of the two designated organisations to the wording, content and design of any explanatory document issued to eligible voters during the referendum period. The Electoral Commission is concerned that this could draw into question the independent nature of the public information it provides. It would also create significant logistical challenges, as it is expected that the booklet will need to be have been printed prior to the designation of lead campaign organisations, and we do not therefore support this amendment.

## Payments to Counting Officers

**Amendment 266** seeks to allow restrictions to the amounts payable to Counting Officers or Regional Counting Officers who may have inadequately performed a service in relation to the referendum. We welcome the additional flexibility which this amendment is intended to provide, and we will discuss in more detail with the Government and with Counting Officers and Regional Counting Officers how this power would be used in practice.

## Accessibility of the referendum poll

**Amendments 328 and 329** seek to require, rather than permit, the Chief Counting Officer at the referendum to direct Regional Counting Officers (RCOs) and Counting Officers (COs), and to require those directions to include directions specifically about the duties of RCOs and COs in relation to voters with disabilities.

**Amendments 330 and 331** seek to place a duty on the Electoral Commission to take particular steps to ensure that support and information is available to disabled voters, and to issue guidance about equality of access to the voting process.

**Amendments 333 - 340** also seek to amend the rules set out in Schedule 2 to the Bill, to require ballot papers and supporting information for voters to be provided in accessible formats, to ensure the accessibility of polling stations, and to require polling station staff to be given instructions and guidance about the rights and needs of disabled voters.

We understand that these amendments have been tabled with the support of Mencap, the RNIB and Scope.

It is clearly important that the voting process is accessible to all electors and that the needs of different groups of people are taken into account. We take seriously our

duties as a public body under equality legislation, including the Disability Discrimination Act and the Equality Act 2010 (due to come into force in April 2011), to ensure, among other things, that the information we provide is accessible and available in alternative formats.

We intend to send an information booklet about the referendum to each household in the UK. This will include information about the voting systems referred to in the proposed question; what would happen in the event of a 'yes' or 'no' outcome; and how to take part in the referendum including how to register and how to vote. This booklet will be available in a range of formats including Braille, audio and large print.

The Chief Counting Officer will issue guidance and directions to RCOs and COs that covers their duties in relation to accessibility and disabled voters under relevant equality and electoral legislation. These include:

- ensuring that polling stations meet the accessibility requirements of the Disability Discrimination Act
- ensuring that information, forms and notices relating to the voting process are available in alternative, accessible formats
- making available enlarged sample versions of the ballot paper in polling stations
- providing a tactile voting device in each polling station to enable voters with visual impairments to vote

As at other elections in the UK, voters who have a disability may ask polling station staff for assistance with voting, or may take someone with them to the polling station to help them cast their vote. And people voting by post may ask someone to help them with the process of completing their ballot paper and postal voting statement. Our instructions for polling station staff will recognise that different voters will have a wide range of needs and aim to ensure that staff are able to meet them.

We will continue to work with Mencap, the RNIB, Scope and other representative and advocacy organisations to ensure the referendum is managed and delivered in a way that ensures all electors are able to participate effectively.

## Schedule 2 – Rules for conduct of the referendum

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### Design of forms and notices for the referendum

**Amendment 268** would give the Chief Counting Officer discretion to modify forms and notices relating to the referendum (other than the ballot paper) so that they are easier for voters to understand and use.

We welcome this amendment, which responds directly to a request from the Electoral Commission, which we believe will allow the key voter-facing forms (such as postal voting statements and guidance for voters in polling stations) to be

improved in line with our *Making your mark* design guidance published in October 2009, which set out for government policy-makers how voter materials should be designed so that they are usable and accessible for voters.

We have previously expressed disappointment that the key voter materials prescribed in Schedule 2 to the Bill, including the ballot paper, postal vote materials and polling station notices, do not appear to have been designed in line with our guidance. We are therefore pleased that the government has taken this opportunity to allow the Chief Counting Officer to specify changes to the wording and content of those forms to improve the accessibility of the voting process.

### Voting procedure at the close of poll

**Amendment 352** seeks to make clear that any eligible elector who is present in a queue at a polling station at the close of the poll at 10pm on polling day for the referendum should be issued with a ballot paper and allowed to vote.

We welcome this amendment, which would give effect to the urgent recommendation which we made to the UK Government in May 2010 in our interim report on the problems experienced by electors at some polling stations at the UK Parliamentary general election. We believe that unless the law is changed, the unacceptable problems experienced by voters could be repeated at future elections and referendums, even if planning, management and the staffing of polling stations is improved.

We would also welcome clarification from the Government that this provision would apply at the elections which are scheduled to be held on 5 May 2011, as well as at the proposed referendum.

### Certification of the referendum result

**Amendment 353** seeks to require Counting Officers to provide information about the result of the referendum for each parliamentary constituency.

The Bill currently specifies that the referendum is to be counted on the basis of local authority areas. We recognise, however, that there may be a desire for results to be available for individual UK parliamentary constituencies, many of which include more than one local authority area. Although we would want to consider in more detail the implications of this amendment for the management of the referendum count process, and in particular on the time required to conduct the count, we see no insurmountable practical barriers to making this information available in due course.

### Requirement to direct Counting Officers to recount ballot papers

**Amendments 153 and 154** seek to require the Chief Counting Officer to order a recount of ballot papers in all regions of the United Kingdom in the event that the

overall difference between the number of Yes and No votes is less than 10,000 or 0.1% of the total number of votes cast.

We are satisfied that the Bill as currently drafted gives appropriate power and discretion to the Chief Counting Officer and Regional Counting Officers to ensure that results are recounted if there is any reason to believe they are inaccurate, and we do not therefore support these amendments.

## Clause 4 – Control of loans etc to permitted participants

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The Government's New Clause 19 provides that media comment will not count as regulated spending during the referendum period. Amendment 233 also seeks to provide for this. The Commission welcomes the new clause, which removes an ambiguity in PPERA and ensures that the rules on media comment during referendum campaigns will be consistent with the rules applying at elections.

## Clause 7 – The alternative vote system: amendments

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Clause 7 and Schedule 6 provide for changes to be made to the Parliamentary elections rules to reflect the introduction of the Alternative Vote system in the event of a 'yes' outcome at the referendum. These changes would have a significant effect on the ballot paper and other materials including guidance and instructions for voters.

We would welcome a commitment from the Government that, in the event that the Alternative Vote system is to be introduced, it will take the opportunity to undertake a thorough review of the design and content of the associated voter materials to ensure that they are usable and accessible to voters, in line with the recommendations in our published *Making your mark* design guidance. This should include user-testing of draft materials before they are finalised and prescribed in legislation.

## PART 2 - PARLIAMENTARY CONSTITUENCIES

Responsibility for Parliamentary boundary reviews lies with the Boundary Commissions for England, Scotland, Wales and Northern Ireland and is not the responsibility of the Electoral Commission.

### Further information

For further information, please contact Caroline Bolshaw, Public Affairs Manager on 020 7271 0632 or [cbolshaw@electoralcommission.org.uk](mailto:cbolshaw@electoralcommission.org.uk)