

## Parliamentary Voting System and Constituencies Bill Report Stage

9 February 2011

Please note that this briefing paper comments only on certain aspects of the Bill, or amendments tabled to date, which the Commission believes raise significant issues of workability or policy. We also welcome amendments that give effect to recommendations we have previously made. The note does not comment on every amendment tabled, and the absence of comment on an amendment does not imply that we support it.

### Schedule 1 – Further provisions about the referendum

**Amendment 31** sets the minimum period between Royal Assent and the poll at six months. We have previously said that, providing the Bill receives Royal Assent in sufficient time to allow a referendum period of at least 10 weeks before the poll, and the rules for the administration of the referendum and other polls taking place on the same day have been clear well in advance of polling day, there will be adequate time to register campaigners and designate lead campaign organisations, so that they can put their arguments to voters. We therefore do not think that this amendment is necessary.

**Amendment 31A** seeks to place a duty on the Electoral Commission to secure the agreement of the Speaker's Committee to any proposed work to promote public awareness of the referendum.

The Commission agrees that it is very important that any work to promote public awareness is discussed with the Speaker's Committee but 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 31ZB** would enable the Chief Counting Officer to give Regional Counting Officers or Counting Officers directions 'as to their policy and procedures for the handling of complaints from persons entitled to vote in the referendum on any matter connected with the discharge of their functions'. There are already a number of legal mechanisms in place that enable complaints about the conduct of the referendum to be pursued. These include breach of official duty provisions applying

to Counting Officers; a mechanism for challenging the result of the referendum by judicial review; and provisions enabling the withholding of fees if the Commission concludes that Counting Officers have performed their services inadequately. Many local authorities will also have their own internal procedures for handling complaints from people who are unsatisfied with a particular service.

Any proposals to change the processes for handling complaints from voters at a referendum would require proper review and consultation in order to ensure that they are workable and effective. We do not believe that there is sufficient time to do this before 5 May 2011.

**Amendment 32** seeks to place a duty on the Electoral Commission to prepare and distribute an explanatory leaflet to all households in the United Kingdom.

We agree that it is important for voters to receive impartial information regarding the choice being put to them in the referendum, which is why we intend to send an information booklet about the referendum to each household in the UK which will include information not only about the voting systems but also about how to take part in the referendum, including how to register and how to vote. We therefore do not feel that this amendment is necessary

The Electoral Commission has published on its website information on the referendum, along with a paper that sets out the process that the Commission has used to ensure that the content has been tested with members of the public, academics and plain English experts. The content of our public awareness booklets will draw on this information.

**Amendment 33** seeks to add a provision to the Bill to require Regional Counting Officers and Counting Officers for the proposed referendum, and Electoral Registration Officers, to take steps to ensure that electors who arrive at a polling station to vote within the hours of poll are able to do so.

**Amendment 34** seeks to permit electors who have arrived within the precincts of the polling station during polling hours (i.e. 7am-10pm) and have not been able to vote by 10pm to be able to cast their vote.

In relation to **amendment 33**, The Commission has always been clear that good planning is an essential part of managing the problem of queues at polling stations. While we support the principle of this amendment, we do not feel that it is necessary, as its intended outcome can be achieved through the Chief Counting Officer's power of direction for the referendum (as provided for in the Bill).

The Chief Counting Officer intends to direct Counting Officers at the proposed referendum, and she has made clear to Counting Officers the key aspects on which she intends to issue directions. These include the preparations that must be made to ensure that potential risks are identified and properly managed and that there are sufficient resources in place to effectively deliver the polls. Counting Officers will be

required to adhere to the Chief Counting Officer's specified staffing ratios<sup>1</sup> and to have contingency arrangements in place to respond to issues that arise on polling day.

However, following problems experienced by voters queuing at polling stations at close of poll at the May 2010 UK Parliamentary general election, we recommended that the Government should urgently change the law so that people who are entitled to vote at a polling station and who are in the queue to enter the polling station at the close of poll are allowed to vote. **Amendment 34** appears to seek to achieve this outcome.

We made clear our concern to Government before the Bill was published, and to Parliament when the Bill was introduced, that without a change to the primary legislation, there remains a risk that voters will be affected by similar problems at the 2011 polls as were experienced in May 2010. We were disappointed that the Government did not choose to act on this recommendation at the time. However, a change to the rules around close of poll would be a significant one, and the details of any changes would need very careful consideration to ensure that they could be consistently applied and did not have any unintended consequences. For a UK-wide referendum consistency of administration across all counting areas is particularly important to ensure that voters have the same opportunity to participate wherever they live.

Amendment 34 is drafted in a way that we believe could be open to different interpretations, which could lead to inconsistent practice. Therefore, although we fully support the principle of the amendment, there is not sufficient time to consider the full implications of this amendment and how it might work in practice, and to consult with the Regional Counting Officers for the proposed referendum. We feel unable to support it at this stage in the planning and legislative process.

## Schedule 2 – Rules for conduct of the referendum

### Schedule 3 - Absent voting in the referendum

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As the Bill stands, entitlement to a postal vote is restricted to those who have successfully applied for a postal vote in the referendum, or who have been granted a postal vote at UK Parliamentary elections for a definite or indefinite period.

The Commission has previously highlighted the risk that many voters who have applied for postal votes for other polls taking place on 5 May may incorrectly assume that they will also receive a postal vote for the referendum. It is possible that many of these voters will be away at the time of the referendum and therefore would not be able to vote in person at a polling station.

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<sup>1</sup> These include a maximum of 2,500 electors to be allocated to any one polling station, and the following minimum staffing ratios: one Presiding Officer per polling station; one poll clerk for up to 1000 electors; two poll clerks for up to 1750 electors; three poll clerks for up to the maximum 2,500 electors.

We therefore welcome **amendments 34A–AS, 34AU–AX, 36 and 37** which would have the effect of granting a postal vote to any person who is on the postal voters list for any poll with which the referendum is combined, and who is entitled to vote in the referendum. The amendments introduce similar arrangements for proxy and postal proxy voters. We believe that these amendments will support effective participation in the referendum.

## 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)