

Parliamentary Voting System and Constituencies Bill

House of Lords Committee Stage – Day 11

19 January 2011

Please note that this paper provides an update to the briefings previously issued on Committee Stage and only comments on certain aspects of the Bill, or amendments, which the Commission believes raise significant issues of workability or policy and have not yet been debated. 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.

Legislative Timetable

As currently set out in the Political Parties, Elections and Referendums Act (PPERA) 2000, the minimum referendum period is 10 weeks from the date of Royal Assent, which in this case would be 24 February 2011. However, in practice, the last day for Royal Assent will need to be 16 February, due to the Parliamentary half term recess.

We have, therefore, included with this Bill briefing a schedule which highlights the key dates and milestones that must be met between Royal Assent to polling day to meet the timetable set out in legislation.

We have produced this timetable to show some of the key milestones based on the latest possible date for Royal Assent, if the referendum is to be held on 5 May, and should not be taken to mean that we are seeking to limit scrutiny of the Bill in Parliament. We are also clear that the date of the proposed referendum is a matter for Parliament.

Schedule 1 – Further provisions about the referendum

Amendments 103 – 107 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 114 – 119 seek to require Counting Officers to ensure that the polling places used at the proposed referendum are accessible to disabled voters, and to notify voters of alternative voting options.

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 but, while we agree with the sentiment of these amendments, we do not feel that they are necessary. The Chief Counting Officer will issue instructions and directions to COs on carrying out their existing duties in relation to accessibility and disabled voters under relevant equality and electoral legislation. These include:

- instructing COs to take steps to ensure that their polling stations are accessible, and to work with people who have particular expertise in relation to access to premises or facilities for disabled people
- ensuring that information, forms and notices relating to the voting process are available in alternative, accessible formats
- promoting participation in the proposed referendum, and providing information about the different methods of voting available and how to access them
- making available enlarged sample versions of the ballot paper and tactile voting devices in each polling station to enable voters with visual impairments to vote

Amendments 108 and 109 strengthen the duty on the Electoral Commission to provide information to voters about each of the two voting systems referred to in the referendum question.

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. This booklet will be available in a range of formats including Braille, audio and large print. We therefore do not feel that this amendment is necessary

The Electoral Commission will later this month publish 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 109A 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 110 seeks 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.

We recognise the importance of ensuring the voting process is as accessible as possible, but while we support the principle of these amendments, we do not believe that they are necessary given the existing duties and responsibilities of counting officers and the Electoral Commission.

The Commission takes 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.

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. The Chief Counting Officer's 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.

Amendment 111 seeks to remove the provision that sets out how the result of the proposed referendum may be challenged, that is, only by a claim for judicial review filed within 6 weeks of the certification to which the challenge relates. There does not appear to be any corresponding amendment to replace this provision.

If accepted, this amendment would therefore leave the referendum result open to challenge for a longer period of time than is presently provided for, and potentially via other avenues than judicial review. The Commission does not support this amendment because we believe it is important that there is a clear, proportionate and timely mechanism for challenging the referendum result and that therefore the current provision is the most appropriate way of achieving this. The current provision also follows the precedent of the last referendum held under the framework of the Political Parties, Elections and Referendum Act 2000, and is consistent with the provisions in the draft National Assembly for Wales Referendum (Assembly Act Provisions) (Referendum Question, Date of Referendum Etc.) Order 2010, which has been approved by Parliament.

Amendment 110ZA seeks to strengthen the relationship between the Chief Counting Officer (CCO), Regional Counting Officers and Counting Officers in the delivery of public awareness work. The Electoral Commission has no objections to this amendment, but would highlight the work that is already underway to achieve what is intended by this amendment. The CCO has established a working group that includes Regional Counting Officers to co-ordinate activity ahead of the planned polls and the Commission's plans for public awareness have been shared with this group, as well as with Counting Officers and Electoral Registration Officers.

Materials will be developed by the Electoral Commission for use by electoral administrators to support their public work awareness and ensure appropriate co-ordination with the Commission's own activity.

Amendments 110ZZA and 110ZZB seek to set out in legislation the contents of the public awareness booklet that the Commission will produce in the run up to the

proposed referendum, and to ensure that the Plain Language campaign has been consulted on any information materials the Commission produces.

The Electoral Commission does not support these amendments. The Commission's booklet will provide information on the referendum including the question, how to cast a vote and an explanation of the first-past-the-post and the alternative vote systems. However, the leaflet will not, and should not, provide arguments for or against each system as we feel that this is the responsibility of campaigners in the referendum. The Commission is aiming to deliver the leaflet to each household in the UK.

Also, the Commission has been working closely with the Plain Language Commission on the contents of its public information leaflet. Although it is important to seek the views of plain language experts on the leaflet contents, we do not feel it is appropriate to mandate the use of one particular supplier of this expertise.

Schedule 2 – Rules for conduct of the referendum

Amendments 112A-C and 113 seek to make alterations to the timetable for the proposed referendum and to the hours of poll. These alterations would create inconsistencies between the timetable and polling hours for the referendum and for the elections scheduled to take place on 5 May, which would be confusing and unhelpful for voters. We therefore do not support this amendment.

Amendment 115 seeks to limit to 1,050 the number of electors allocated to any polling station for the proposed referendum.

The Commission does not believe such a provision is necessary. The Chair of the Commission is the Chief Counting Officer for the proposed referendum and intends to issue directions to Counting Officers as to the maximum number of electors to be allocated to any polling station, and the minimum number of staff to be present at each polling station. For example, a polling station must not have more than 2,500 electors allocated to it.

Further Information

For further information, please contact Caroline Bolshaw, Public Affairs Manager on 020 7271 0632 or cbolshaw@electoralcommission.org.uk

Key dates for a 5 May 2011 referendum if Royal Assent is on 16 February (dates will change if Royal Assent is on a different day)

Key dates in 2011	Milestone
February 16	Last day for Royal Assent for a 5 May referendum <i>(Because leaving until after Parliamentary recess would not allow 10 weeks for a Referendum Period)</i> Opening date for application to be Designated Organisations
March 15	Closing date for applications to be Designated Organisations
March 18	Earliest possible date for Electoral Commission to designate Yes/No organisations <i>(if all the applications are received early on in the application period, otherwise the earliest possible date will be 24 March)</i>
March 25	Electoral Commission public information campaign begins in Northern Ireland
March 28	Electoral Commission public information booklet distribution begins in Northern Ireland
March 29	Latest date for designation of Yes/No organisations <i>(if designation decision is more complex)</i>
April 1	Northern Ireland booklet distribution ends Electoral Commission public awareness campaign begins in GB
April 4	Electoral Commission booklet distribution begins in GB
April 8	Great Britain booklet distribution ends
April 11	Last date to register for an absent vote in Northern Ireland
April 14	Last date to register to vote in England, Wales and Northern Ireland After 5pm first postal votes can be delivered to electors in GB
April 15	Last date to register to vote in Scotland
April 18	Completion of first issue of postal votes across UK <i>(expected CCO direction for Counting Officers)</i>
May 5	Polling day