

Written evidence from The Scottish Assessors Association (TEB 42)

Public Administration and Constitutional Affairs Committee The Elections Bill inquiry

Introduction

This paper is the Scottish Assessors Association's (SAA) Electoral Registration Committee's response to the Public Administration and Constitutional Affairs Committee's Call for Evidence into the Elections Bill. The SAA does not comment on policy matters directly and the comments in this response are limited to technical matters around policy implementation.

The Bill introduces a number of policy measures that affect reserved elections in Scotland e.g Voter Identification at UK Parliamentary Elections, renewal of postal vote applications for electors on the parliamentary register every three years and changes to the franchise requirements for Overseas Electors. It will therefore have a direct effect on the fifteen Electoral Registration Officers in Scotland who will be personally responsible and accountable for the implementation of the legislation if passed.

Background

The Scottish Assessors Association (SAA) is a voluntary non-statutory body that represents the 14 lands valuation Assessors appointed in terms of section 27(2) of the Local Government etc. (Scotland) Act 1994. The SAA has been in existence in one form or another since 1855, and has as its purpose:

“to encourage amongst its members the exchange of ideas regarding their statutory duties; to record results of discussions on all subjects brought before its meetings; to promote consistency in the operation of the Valuation, Council Tax and Electoral Registration legislation; to act as a consultative and advisory body; engage in partnership work both internally and externally with organisations and public bodies; and to represent the collective interests of its members in carrying out their duties”

Thirteen Assessors are also appointed Electoral Registration Officers (EROs) for 30 local authorities. However the SAA Electoral Registration Committee's membership includes all fifteen Scottish EROs appointed in terms of section 8 of the Representation of the People Act 1983 by the 32 local authorities in Scotland and their senior staff. The Electoral Registration Committee therefore comprises the fifteen individuals who are personally responsible and accountable for the delivery of electoral registration in Scotland.

The Electoral Registration Committee (ERC) meets approximately every two months. Representatives from the Electoral Commission, Scottish Government, Boundary Commission and Cabinet Office attend the committee meetings although they are not committee members. The Committee therefore facilitates dialogue between Scottish EROs and partner organisations. It also acts as the principle forum to share good practice, agree timetabling, and a common approach to registration amongst Scottish EROs which in turn provides a consistent registration experience for the elector. Examples of this are as follows.

- The ERC has agreed a single date to be used across Scotland for Second Interim Updates to the Registers ahead of Elections.
- The ERC has worked together to ensure that rejected postal vote notification letters are issued across Scotland at the same time.
- The ERC has agreed a common timetable across Scotland for the refresh requests for Absent Vote Identifiers
- The ERC has organised national campaigns across Scotland to promote awareness of the Annual Canvass, the extension of the franchise to foreign nationals and most recently the deadline for applying for a postal vote at the Scottish Parliamentary Election in May 2021.
- The ERC has developed a common Data Sharing Agreement for Scottish EROs to facilitate the exchange of information in connection with the registration of young electors.

Consideration of the particular aspects of the Bill

The main items covered in this response are as follows;

- Voter Identification
- Changes to postal voting arrangements for UK parliamentary elections
- Changes to proxy voting arrangements for UK parliamentary elections
- Changes affecting the Electoral Commission
- Clarification of “undue influence”
- Accessibility of Polls
- Intimidation – new electoral sanction
- Notional Expenditure
- Political Finance
- Digital Imprints

Dealing with these in turn

Voter Identification

The Bill provides for applications to be made to EROs for an electoral identity document or an anonymous elector’s document, the ERO must determine these applications. This is important as it is necessary to maintain the link between an electoral identity document and a person’s registration status at the point of application. The precise requirements around this process and the format of the documents themselves are to be set out in secondary legislation. The Bill also sets out existing forms of identification that can be used to prove an elector’s identity when voting in person at a UK Parliamentary election.

It is unknown at this stage what the actual take up of the two new documents will be but it will require the ERO to allocate additional resources and it is essential that the ERO receives the necessary additional funding to meet this new duty. It will also be important that the electorate are alerted to these changes as soon as possible and that there is enough notice given to allow sufficient time for them to apply for the new documents and the ERO to determine the applications ahead of an election.

As these changes will only affect electors in Scotland who are eligible to vote in UK Parliamentary elections, there will need to be clear publicity of this fact to avoid elector confusion. This will be particularly important if another electoral event is taking place on the same day based on the local government franchise e.g. local authority by-election. Any unnecessary applications will take ERO resources away from the task of issuing documents to those who need them.

Electoral Registration Officers currently require those people applying to register to vote whose National Insurance number or date of birth do not match against government records to supply documentary evidence to verify their identity. This only involves a small percentage of total applications but from experience the provision of documentary evidence in these situations can take time. Even if only a small percentage of electors require an electoral identity document the receipt of the evidence and the verification of that evidence is therefore likely take time e.g. if the correct supporting documentation is not supplied initially by the elector. It is important that the process is carried out carefully by trained staff to ensure the identity document is correctly issued.

The time taken to process and verify an application becomes critical in the run up to an election. An unexpected election could generate a lot of applications in a short period of time putting significant pressure on ERO resources. Extra resources will be needed to carry out this task and it is noted that the UK Government intends to make these available to EROs.

It is important to note that that the first time EROs in Scotland will have to process electoral identity documents at an election will be at a UK Parliamentary General Election, that election could occur at quite short notice and applications could be received in a very short timescale at what will be a busy time for EROs.

Consideration will also need to be given as to the most effective ways of issuing the documents themselves. This will be particularly important in rural areas in Scotland where the population is dispersed over a large geographic area, including remote islands. This task becomes time critical in the run up to an election to avoid electors being disenfranchised.

Changes to Postal Voting Arrangements for UK Parliamentary Elections

The Bill proposes that electors in Scotland who are currently registered for a postal vote for a UK Parliamentary election for an indefinite period or a particular period will need to reapply for their postal vote every three years on the third 31st January after the date of their latest application. Transitional arrangements are proposed that will require all existing postal votes for UK Parliamentary elections to be moved to the new system by the third 31st January after a date to be specified in secondary legislation. At the present time the requirement is that electors with a postal vote refresh their postal vote signature every five years. There are no corresponding provisions in the Bill relating to devolved elections in Scotland. It is also noted that the Bill proposes measures around the handling of postal vote packs but that there are no corresponding measures in respect of postal vote applications.

For those electors who are only enfranchised for UK Parliamentary elections i.e. overseas electors they will only be affected by one process i.e. re-applying every three years. For those

electors who are only enfranchised for devolved elections in Scotland e.g. European Union Citizens, relevant foreign nationals they too will only be affected by one process i.e. a signature refresh every five years. For those electors enfranchised for both UK Parliamentary elections and devolved elections i.e. British, Irish and Commonwealth citizens they will be affected by both processes.

The SAA does not offer a view on which policy is to be preferred but notes that creating differing processes carries the real risk of elector confusion, particularly for those electors having to deal with both processes and a government information campaign is needed, if the processes are not harmonised.

A re-application every three years will require more ERO resource than a signature refresh every five years and running two processes will be more complex than running a single process. Therefore it is again important that EROs receive the additional funding needed to meet the changes brought about by this legislation. An online postal vote application service that is fully integrated with EROs' Electoral Management Systems would assist with the processing of large scale renewals.

Changes to Proxy Voting Arrangements for UK Parliamentary Elections

The Bill proposes changes that only affect electors with a proxy vote for UK Parliamentary elections. It removes the ability for a person to act as a proxy for an unlimited amount of close family members. It introduces new limits on the number of electors a proxy can be appointed for which differ between overseas electors & service electors and other electors. It also introduces transitional arrangements which will require affected electors to reapply for their proxy vote

The SAA's comments are similar to those for the changes proposed for postal voting. The SAA does not offer a view on the policy itself but notes that the Bill introduces differing requirements for UK Parliamentary election proxy vote applications to those for devolved elections. This creates a more complex situation which will need clear government communication to the electorate to avoid any confusion. It is also important that the ERO is fully funded for any additional work arising from these changes.

Overseas Electors

The widening of the franchise will create additional work for Scottish EROs and it is important that they are fully funded for this additional work.

The Bill removes the current requirement that to be enfranchised as an Overseas Elector the applicant must have been registered on the parliamentary Register of Electors within the fifteen years prior to the date of their application. The Bill not only removes the fifteen year period but also introduces the ability for a person to qualify even if they have not previously been registered. In the case of a person not previously registered the applicant must prove that they were resident at the address to which they are declaring.

Searching historical copies of the register, if still held, can be a slow and time consuming process. Proving historical residence at a property could be difficult for the applicant. The ERO will also need to be certain that any evidence confirms that an elector was resident at a property and not for example merely using it as a correspondence address without ever

having been resident. The verification of previous residence could therefore be a time consuming and complex process, particularly as the applicant will be resident overseas which can easily add a delay to any communications. Unfortunately not all applicants provide an email address or telephone number with their application.

Consideration should be given to setting an earlier deadline for postal vote applications from Overseas Electors to allow postal packs to be issued earlier, thus giving them sufficient time to receive and return their ballot papers.

Changes affecting the Electoral Commission

The SAA has no comment on the changes affecting the Electoral Commission. The SAA values the guidance and support currently provided to electoral administrators by the Commission. It is important given their role as regulator and their administrative role in UK wide referendums that they are seen to be independent.

Clarification of “undue influence”

This is a matter outwith the remit of the SAA and therefore no comment is provided.

Accessibility of Polls

The SAA has no specific comment on the proposals that relate to the duties of the Returning Officer but it is supportive of any measures that will improve the accessibility of elections to the electorate.

Intimidation – new electoral sanction

This is a matter outwith the remit of the SAA and therefore no comment is provided.

Notional Expenditure

This is a matter outwith the remit of the SAA and therefore no comment is provided.

Political Finance

This is a matter outwith the remit of the SAA and therefore no comment is provided.

Digital Imprints

This is a matter outwith the remit of the SAA and therefore no comment is provided.

Conclusion

The Bill proposes several changes that will impact UK Parliamentary elections and electors only. There have also been recent changes by the Scottish Government that affect devolved elections only. The differences between the various elections means that it is important that wherever possible elections with different rules and franchises are held on differing days to avoid elector confusion. Where it is not possible to avoid this situation arising it is critical

that the public/electorate is fully informed of what they need to do to participate in the democratic process for each election.

To ensure that elections are accessible as possible any difference in absent vote arrangements must be clearly signposted and communicated to avoid elector confusion. The changes proposed by this Bill will create additional duties and work for EROs and it is important that they are fully funded in this regard.

August 2021