

Robert Nicol
Scottish Assessors Association

3 April 2024

Scottish Elections (Representation and Reform) Bill: Follow up to evidence session

Dear Convener,

I write further to the meeting of the Committee on 21 March 2024 at which I provided oral evidence to the Committee in support of their consideration of the Scottish Elections (Representation and Reform) Bill. The Scottish Assessors Association had already submitted a response to the Committee's consultation and during the evidence session I agreed to provide further information to the Committee on matters that arose during discussion relating to the provisions of the Bill. This information is addressed below.

Postponement of Elections

There was discussion at the evidence session around the mechanics of the postponement of elections, provision for which is made in the Bill. I will focus primarily on the issues from the Registration side, however there are some inevitable linkages with issues that would arise from the Returning Officers' perspective. At this point in time there are no Regulations that cover this eventuality, however the Schedule 1 of the Scottish Local Government Order 2011, which lays out the Rules for Scottish Local Government Elections, may provide an appropriate model, in particular Part VI Rule 65 which covers the instance of a death of a party candidate after the close of nominations. In this instance the poll is countermanded and a completely fresh election is run at a future date.

This may provide a suitable model as the registration and absent vote application timetable is tied to the date of the poll, for example the last date for registration is midnight on polling day minus 12 days and the deadline for new postal vote applications is 5pm on polling day minus 11 days.

If an election was postponed for a period and the timetable frozen after day minus 11 or 12 then the register would not be able to be updated to reflect new electors who would normally be eligible to be added, such as attainers (those who have reached the qualifying age) nor would electors who would no longer be eligible be able to be removed. It is also not unreasonable to assume that some electors who would have intended to vote in person on the original polling day may now require an absent vote for the rescheduled date and with a timetable being 'frozen' after day minus 12 this option would not be available to them. Indeed a timetable that was 'frozen' close any of these deadlines may not allow much time for an elector to act to either register or apply for an absent vote when the timetable resumed.

The lodging of nomination papers at day -19 may provide a suitable cut off point between a paused, or frozen election timetable and one where a fresh election is

required as no postal votes will have been issued at this point and the registration timetable has not reached any significant milestones.

The electoral register is updated on a monthly basis, outwith an election period, to reflect the changes within area. A lengthy postponement which extended to several weeks with a 'frozen' timetable after day minus 12 would mean that any electors that had been added to the register in subsequent monthly updates would require to be informed that they were not eligible to take part in the poll, potentially leading to voter confusion.

The EMB and the AEA within their evidence stated that a postponement period of two weeks would be impractical in terms of booking polling places and, where an electronic count was involved, in making arrangements with the eCount supplier. It is noted that the Bill at Sections 25 and 26 makes reference to a maximum period of two weeks whereas at section 27 there is provision to postpone for up to 3 months for a by-election. Any regulations would need to ensure that the Registration and other timetables can be shown to be reasonable and put the elector first within the possible range of postponement periods that the Bill will allow.

Conclusion

As noted in our written submission to the Committee the SAA has welcomed the opportunity to engage with the Committee to support its consideration of the Bill. The SAA would be happy to discuss more fully any of the points within our response or this additional information or indeed any other matters relating to Electoral Registration.

Regards
Robert

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