



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Standards, Procedures and Public Appointments Committee

Thursday 14 November 2024

Session 6



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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
24th Meeting 2024, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)

Ruth Maguire (Cunninghame South) (SNP)

*Sue Webber (Lothian) (Con)

Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jeremy Balfour (Lothian) (Con)

Bob Doris (Glasgow Maryhill and Springburn) (SNP)

Ross Greer (West Scotland) (Green)

Jamie Hepburn (Minister for Parliamentary Business)

Rona Mackay (Strathkelvin and Bearsden) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 14 November 2024

[The Convener opened the meeting at 09:30]

Scottish Elections (Representation and Reform) Bill: Stage 2

The Convener (Martin Whitfield): Good morning. I welcome everyone to the 24th meeting in 2024 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Ruth Maguire and Annie Wells, and I welcome Rona Mackay, who is attending as Ruth's substitute.

Our first agenda item is consideration of the Scottish Elections (Representation and Reform) Bill at stage 2. This is the second day of our consideration of the bill at stage 2. For anyone who is watching, I will briefly explain the procedure that we will follow during today's proceedings. Members should have with them a copy of the bill, the marshalled list and the groupings of amendments. Those documents are available on the bill's web page on the Scottish Parliament's website.

I will call each amendment individually in the order in which they are listed in the marshalled list. The member who lodged the amendment should either move it or say, "Not moved," when it is called. If the member does not move the amendment, any other member who is present may do so.

The groupings of amendments document sets out the amendments in the order in which they will be debated. There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in that group to speak to, but not move, their amendments and to speak to other amendments in the group, if they so wish. I will then call any other members who wish to speak in the debate. Members who wish to speak should indicate that by catching my or the clerk's attention. I will then call the minister, if he has not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to

indicate whether he or she wishes to press the amendment or to withdraw it. If the amendment is pressed, I will put the question on the amendment. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member who is present objects. If there is an objection, I will immediately put the question on the amendment. Later amendments in a group are not debated again once they are reached so, if they are moved, I will put the question on them straight away.

If there is a division, only committee members are entitled to vote. Voting is done by a show of hands. It is important that members keep their hands raised clearly until the clerk has recorded their names. If there is a tie, I must exercise a casting vote, and my policy will be to use my casting vote to vote against any amendment.

The committee is required to consider and decide on each bill section and schedule, as well as its long title, and I will put the question on each of those provisions at the appropriate point.

Section 29—Funding to increase democratic engagement

The Convener: Amendment 70, in the name of Ross Greer, is grouped with amendments 71, 54, 75 to 77, 55 and 56.

Ross Greer (West Scotland) (Green): Good morning, colleagues. You will be glad to know that I will speak only to my two amendments in the group and that I will do so quite briefly.

Amendment 70 is an example of giving examples in legislation. It is often useful to, sparingly, provide examples in legislation to demonstrate clear intentions, particularly for those who will come after us. Amendment 70 includes the classic legislative language of "Without prejudice to" the above, and it states that

"automatic voter registration in educational establishments", including schools, universities and colleges, could be one of the activities that could be funded under section 29.

There is a huge amount of evidence on the positive impact of automatic voter registration, which is often far more cost effective than campaigns to encourage people to register individually in their own time. Bluntly, education establishments have a captive audience, so there is plenty of potential in that regard. For example, there is a lot of potential for the automatic voter registration of young people at the point at which they are issued with their Scottish Qualifications Authority candidate number. There is very good work in some American states, with people being automatically registered to vote when they receive

their driving licence from the department of motor vehicles.

Amendment 70 is not prescriptive. It does not mandate that that is one of the activities that should be undertaken, but it points to it as an example. It is what I would describe as a nudging amendment—nudging in what I believe to be the intended direction for section 29.

Amendment 71 simply points out that due regard should be given to the Equality Act 2010, in recognition of the fact that some of the groups with the lowest participation rates—or with rates that are lower than the average participation rate—are groups that are defined by protected characteristics under the 2010 act. One of the most obvious ones is age, as there is a lower participation rate among young people, and another covers disabled people, which is relevant to other sections of the bill.

Those are the intentions behind both my amendments.

I move amendment 70.

The Convener: I invite Jeremy Balfour to speak to amendment 54 and other amendments in the group.

Jeremy Balfour (Lothian) (Con): Good morning. I intend to speak only to amendment 54, in my name, which relates to the access to elected office fund. As most colleagues will be aware, the purpose of the fund is to support and encourage people with a disability to take part in elections in a way that is similar to the way in which people who do not have a disability can do. I am pleased to say that the idea of such a fund has been pioneered outwith Scotland and that, interestingly, it has now been picked up in other jurisdictions in the Commonwealth.

My reason for lodging amendment 54 is that, disappointingly, the Westminster Government got rid of the access to elected office fund for the Westminster election that took place earlier this year. I appreciate that the Scottish Government has committed to support the fund for the Scottish Parliament election that is coming up in 14 months' time, but we do not know how future Governments will look at the matter. Putting the fund in statute will protect local council elections and Scottish Parliament elections and will allow people with a disability to be able to take part in such elections in a fair way.

I have never used the fund, but I have received evidence from Inclusion Scotland that at least six or seven people were elected at the most recent local council elections because of the fund who would not otherwise have stood. I think that putting the fund in statute is a positive way forward, which

will mean that we can use and maintain it on a cross-party basis in future.

I thank the minister and his team for their help with the wording of amendment 54, and I hope that the committee will agree to it.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I want to set amendments 75 to 77, 55 and 56 in context. The Electoral Commission's report on the May 2022 Scottish council elections drew attention to concerns about the level of rejection in some council wards. The highest rejection rate was in the Canal ward in my constituency of Maryhill and Springburn, where it was 5.64 per cent, which was more than three times the average rejection rate. To put that in context, one in 18 votes that were cast in that ward were discarded or did not count. Across the country, the rejection level was one in 56.

The most common reason for a ballot paper being rejected was that it expressed a first preference vote for more than one candidate—that happened with 64 per cent of rejections. In other words, those ballot papers had been unintentionally spoilt. That was not the case only in the Canal ward. The rejection rate in Kilpatrick was 2.5 times the national average, and the rates in Clydebank Central, Coatbridge South and Dundee Coldside were all more than 4 per cent, which was more than double the national average.

There are long-term, enduring issues with votes being cast by members of the electorate who are seemingly unaware that their ballot papers will be rejected because they have been unintentionally spoilt in such circumstances. My amendments represent an effort to embed a comprehensive approach to tackling such issues at the heart of the Electoral Commission's work and to make votes count.

Along with Canal ward councillors Councillor Gow and Councillor McLaren, who is Glasgow's Lord Provost, I have had extensive dialogue with the Electoral Commission. I have also met the previous parliamentary business manager, George Adam, and the current parliamentary business manager, Jamie Hepburn, on several occasions.

I turn to the specifics of the amendments. Amendments 75 and 76 seek to modify the Political Parties, Elections and Referendums Act 2000. Amendment 75 seeks to insert in section 13, which is on voter education, a specific reference to the marking of ballot papers in elections. Amendment 76 seeks to insert a new section on the Electoral Commission's annual report, whereby its annual report to Parliament on devolved functions must contain information about what steps it has taken to reduce the number of spoilt ballot papers in devolved Scottish elections.

Amendment 77 seeks to make it a new requirement that each five-year plan that the Electoral Commission is required to submit to the Scottish Parliamentary Corporate Body on the commission's activities in relation to Scottish Parliament and local elections must include how the commission will aim to reduce the number of spoilt ballot papers in devolved Scottish elections.

Amendments 75 to 77 together ensure that the work to reduce the likelihood of unintentionally spoilt papers can take place within and outwith election cycles.

Amendment 56 places a duty on the Electoral Commission to prepare and publish a strategy for reducing the number of spoilt ballot papers at each ordinary local election.

Amendment 55 makes changes to the report that the Electoral Commission must prepare after the holding of nationwide Scottish Parliament and local government elections. It requires the commission to report on the steps that were taken by itself and returning officers to promote public awareness of the election and how to vote in it, including, in particular, how to fill in a ballot paper. The report can also describe steps taken by others, as the commission considers appropriate. That is important, as the Electoral Commission works with relevant national and local partners on an on-going basis—the commission has a strategic overview, but it is not always the delivery partner.

Together, the five amendments in my name in this group offer a comprehensive approach, in legislative terms, to doing all that we can to ensure that, when votes are cast in devolved Scottish elections, they count and are not inadvertently spoilt. They also ensure that the Electoral Commission can take forward those legislative provisions in a flexible way.

I firmly believe that that approach can help to assist not only the communities that I represent, such as in Canal ward, but other communities with similar issues across Scotland. It will ensure that their votes are not only cast but count, and that their voices are heard.

I urge members to support the amendments in my name.

The Convener: I have had no other indication that any other member wishes to speak, so—good morning, minister—I invite the minister to speak.

The Minister for Parliamentary Business (Jamie Hepburn): Happily, I will not take too long with this group, either. I am happy with the amendments in the group, which should assist voter education and increase democratic engagement, and I urge members to support them.

I support Ross Greer's amendment 70, as I recognise the challenges that often exist in ensuring registration of students. Ministers already have to take into account the impact of their decisions under the Equality Act 2010, but I am of the view that there is no disbenefit in supporting amendment 71.

I am pleased to have been able to discuss Bob Doris's amendments 55, 56 and 75 to 77 with him previously. It is clearly a matter of great concern if anyone loses their vote in error, and, to Mr Doris's credit, he has been pursuing the issue of spoilt ballot papers in local elections for some time. I am happy to support those amendments and very much hope that they help lead to a reduction in spoilt ballot paper rates.

It is, of course, important to recognise that it is not only the Electoral Commission that works on the issue. Returning officers, in particular, have a vital role to play in ensuring that appropriate descriptions of the voting process are available in polling places, and in relation to training staff to give voters the information that they need to complete the ballot paper so that their vote can be counted.

I have been pleased to work with Jeremy Balfour on amendment 54. The access to elected office fund is universally popular, and rightly so. As Mr Balfour has reminded us, it has been so effective that others are learning from our experience and are seeking to implement similar funds. As committee members will be aware, the fund pays for practical support to allow disabled people to fully participate in the political process, and I am pleased with the feedback that we have had from elected representatives who say that they would not have stood for election were it not for the support of the fund.

The Scottish Government set up the fund to be run at arm's length by Inclusion Scotland, which has the knowledge and capacity to run it so that it is tailored to the needs of individuals. Jeremy Balfour's amendment will place the fund on the secure footing that it deserves, and I am pleased to support it. I was also pleased to see that the Electoral Commission welcomed the change in its briefing paper on the bill last week.

As I said, I urge committee members to support all amendments in this group.

Ross Greer: I am grateful for the minister's support, and I am glad that he is supporting the other amendments in the group, which I think are worth while, too.

I press amendment 70.

Amendment 70 agreed to.

Amendment 71 moved—[Ross Greer]—and agreed to.

Section 29, as amended, agreed to.

After section 29

Amendment 44 moved—[Jamie Hepburn]—and agreed to.

Amendment 54 moved—[Jeremy Balfour]—and agreed to.

Sections 30 to 37 agreed to.

Section 38—Individual culpability where organisation commits an offence

Amendment 45 moved—[Jamie Hepburn]—and agreed to.

Section 38, as amended, agreed to.

Sections 39 and 40 agreed to.

Section 41—Guidance

09:45

The Convener: Amendment 46, in the name of the minister, is grouped with amendment 47.

Jamie Hepburn: Amendments 46 and 47 respond to concerns raised by the Electoral Commission and Police Scotland on the wording of the bill's provisions in relation to digital imprints on campaign material. Both organisations considered that there should not be a direct reference to the police having regard to commission guidance, to better reflect the police's operational independence.

The wording in the bill on introduction was derived from provisions in the United Kingdom Elections Act 2022, but I am pleased to respond to the concerns expressed by removing the references in question, and I urge the committee to support the amendments. In practical terms, I reassure the committee that the commission will still produce guidance in this area, and it will be a question for the police as to how they interpret their duties.

I move amendment 46.

The Convener: That is excellent. As I have had no indication that any other member wishes to speak, I call the minister to wind up formally.

Jamie Hepburn: I have nothing else to add, convener.

Amendment 46 agreed to.

Amendment 47 moved—[Jamie Hepburn]—and agreed to.

Section 41, as amended, agreed to.

Sections 42 to 44 agreed to.

Section 45—Boundaries Scotland: changing date of next review of local government wards and number of councillors

The Convener: Amendment 72, in the name of Ross Greer, is grouped with amendments 73 and 74.

Ross Greer: I should say at the outset that, although I will be moving amendment 72, I will not be pressing it to a vote or moving amendments 73 and 74. I have had some useful engagement with the minister on this matter, and I think that there is potential for at least a partial agreement, although I recognise that there are still points to work through.

I will summarise the purpose of these amendments. I believe that it is desirable for the public to have a clear understanding of the electoral boundaries that they sit within. Obviously, where there is a change in those boundaries, it takes time to communicate that. At a very practical level, the successful functioning of our democracy in our elections depends on political parties being able to function well, and they need a reasonable degree of notice of any boundary changes, for the purposes of selecting candidates and doing any internal reorganisation that might be required.

The intention of the amendments, therefore, is quite simply to set an 18-month deadline before an election for the completion of the relevant boundary review, so that the public and the parties participating in an election have the notice that they require in order to be fully informed and prepared.

I move amendment 72.

The Convener: I am grateful. I have had no indication that any other member wishes to speak, so can I come to you, minister?

Jamie Hepburn: Certainly, convener.

I am very pleased to have been able to discuss these amendments with Ross Greer. I am supportive of the principle behind them; I see the benefits in putting in place the proposed 18-month period before elections to give constituents, candidates, administrators and, indeed, political parties certainty about boundaries.

Ross Greer said that he will not be pressing any of his amendments, but I can tell him that we are more than willing to support amendment 72. However, the wording of amendments 73 and 74 would see the 18-month rule applied to the next set of scheduled local government elections in 2027, which would clearly not be practical in terms of Boundaries Scotland's work after the current Scottish Parliament review is completed. I am clear that the proposed change in approach, although sensible, can apply only to the local government elections scheduled for 2032. Mr

Greer has indicated that he will not be moving the amendments today, and I am happy to work with him to ensure that similar amendments can be lodged again at stage 3, on the basis that I have laid out, when I will be happy to support them.

Now that this area has been opened up, I should say that I believe that, if such a change is to happen for council elections, it would be sensible to apply it to future Scottish Parliament reviews, too. I suggest that we will end up revisiting this issue at stage 3.

We can support amendment 72—it is up to Mr Greer whether he presses it—but, although we support the principle behind his other amendments, I suggest that we return to them at stage 3.

The Convener: I am very grateful, minister. I call Ross Greer to wind up and indicate whether he will press or withdraw amendment 72.

Ross Greer: I will strike my previous remarks from the record and thank the minister for his support by pressing amendment 72. I am grateful for his support, and I will come back at stage 3 with redrafted equivalents to amendments 73 and 74.

Amendment 72 agreed to.

Amendments 73 and 74 not moved.

Section 45, as amended, agreed to.

Before section 46

Amendments 75 and 76 moved—[Bob Doris]—and agreed to.

Section 46—Five-year plan: devolved Scottish elections and referendums

Amendment 77 moved—[Bob Doris]—and agreed to.

Amendment 48 moved—[Jamie Hepburn]—and agreed to.

Section 46, as amended, agreed to.

After section 46

Amendments 55 and 56 moved—[Bob Doris]—and agreed to.

Section 47—Constitution of the Electoral Management Board for Scotland

The Convener: Amendment 49, in the name of the minister, is grouped with amendments 50 to 53.

Jamie Hepburn: I am aware that there is a substantial number of amendments in this group, but they are fairly straightforward, so I should not take too long.

I ask the committee to support the amendments in the group, which provide for the Electoral Management Board for Scotland to be constituted as a body corporate, including the required adjustment to the funding model.

The EMB has been successful in supporting the smooth running of elections in Scotland as a statutory committee, and these amendments will mean that it is accountable directly to the Scottish Parliament. That will consolidate its independence and build on its strengths.

The amendments reflect the points that were made to the committee by the convener of the EMB at stage 1, as well as the committee's recommendations. They also provide for two deputy conveners, and the rules for membership and staffing are fully set out in a new schedule to the Local Electoral Administration (Scotland) Act 2011. Provision is also made for the EMB to submit to Parliament a five-year plan on its activities and for ministers to be able to ask the EMB to consider specific issues. That could, for example, include matters around spoilt ballot papers and the script that is used at polling stations. The new framework has been developed with the support of the convener of the EMB and parliamentary officials.

I acknowledge the remarks that were made by the convener of the EMB in a letter that was sent to the committee last week. The convener of the board questioned the policy of allowing electoral professionals from elsewhere in the UK to be members of the EMB. I want to make clear that the amendments in no way require returning officers or electoral registration officers from other parts of the UK to be, by necessity, appointed as members of the EMB. The amendment merely expands the possible pool of candidates. Paragraph 2(5) of the new schedule that is added by amendment 51 is designed to ensure that the membership as a whole still has Scottish experience. It states:

“When appointing members, the convener is to have regard to the desirability of the membership taken as a whole having a broad range of experience in relation to—

(a) different local authority areas (including different kinds of areas) throughout Scotland, and

(b) the different constituencies and regions provided for Scottish parliamentary elections”.

Although the pool is made bigger, the convener will still have to appoint a board that, taken together, has relevant Scottish experience.

I am grateful for the input of the EMB in pulling together these amendments, which will give rise to a new chapter for the EMB and ensure that it is even better equipped with regard to the running of elections in Scotland—elections in whose results the voter can have full confidence.

I move amendment 49.

Amendment 49 agreed to.

Amendments 50 and 51 moved—[Jamie Hepburn]—and agreed to.

Section 47, as amended, agreed to.

After section 47

Amendments 52 and 53 moved—[Jamie Hepburn]—and agreed to.

Sections 48 to 50 agreed to.

Long title agreed to.

The Convener: That ends stage 2 consideration of the bill. I am grateful to colleagues and the minister.

Meeting closed at 09:56.

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