

The Association of Electoral Administrators



Response to the Referendums (Scotland) Bill Call for Evidence

Organisation:

Association of Electoral Administrators (AEA). A joint response from the National AEA and the Scotland and Northern Ireland Branch of the AEA.

Summary of Organisation:

The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has just under 2,000 members, the majority of whom are employed by local authorities to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom one of which is Scotland and Northern Ireland.

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Call for Evidence Questions:

Question 1: What are your views on the overall policy of the Bill?

The Association of Electoral Administrators does not hold a view on the overall policy. It is a matter for the Scottish Parliament to determine. AEA members will administer the process according to the legislation in force. However, the legislation introduced must be deliverable by the Electoral Registration Officers and Returning Officers.

The overall policy and principle of the Referendums (Scotland) Bill provides the legislative framework by providing the rules for voting and sets out the rules for how the poll should be conducted including campaign rules. The rules are largely based on existing UK and Scottish legislation covering elections and referendums and therefore provide some consistency in the conduct of the polls and are deliverable.

The Bill provides the basis for the conduct of future referendums and provides for the efficient passing of the next stage of legislation when required as a referendum is called. However, as we are sure you are aware of Ron Gould's key principle that:

"... electoral legislation should not be applied to any election held within six months of the new provision coming into force."¹

¹ [Independent Review of Scottish Parliamentary and Local Government Elections, Ron Gould, 2007](#)

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We therefore request that the principle is followed in relation to future legislation.

Question 2: What are your views on the extent to which the Bill reflects good practice in holding referendums?

The Bill is based on other referendum and election legislation in relation to the conduct of polls and counts and from that point of view will reflect good practice. That said, there is always room for improvements and the time has come for a radical review of all electoral procedures as outlined later in our response.

The Association's response to the [Public Administration and Constitutional Affairs Committee Inquiry on 'Lessons learnt from the EU referendum'](#) highlights the issues at the EU referendum in 2016. All the responses received from the inquiry are available [here](#).

In addition, following the EU referendum in 2016, the Association published a post-election and EU referendum report [Pushed to the absolute limit: 2016 - the electoral year never to forget](#) in which we made the following recommendations which you may also wish to consider:

- 2-5 As with other election law, if Fees and Charges Orders remain the mechanism for funding specific elections and referendums, the appropriate Orders should be in place at least six months prior to the date of such elections and referendums.
- 2-9 Any polls coinciding in the same area on the same day must be combined, but with an upper limit on the number of polls being allowed to take place on any one day.
- 7-2 As part of the party registration process, the Electoral Commission should maintain a list of official email addresses for the national registered parties and campaigners to which electoral registers and lists of absent voters may be securely sent, and ensure that the list is made available and readily accessible to electoral administrators at all times.
- 8-3 The UK Government and the Electoral Commission should work together to ensure more effective coordination in the provision of information about future referendums, along with consideration of a joint single booklet.
- 8-4 Consideration should be given to the wording of any national registration campaign prior to an election **or referendum**, to clarify that there is no need for an elector to take any further action if they have already received their polling card.
- 11-3 The UK Government should consider legislative provision for the appointment of sub-agents for future referendums.

Question 3: What are your views on these regulation-making powers?

The Association of Electoral Administrators does not hold a view on this question. It is a matter for the Scottish Parliament to determine. AEA members will administer the process according to the legislation in force.

As outlined in our answer to question 1 we would request that Ron Gould's key principle is followed in relation to future legislation.

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Question 4: Should the Bill provide for the possibility of citizen – initiative referendums?

The Association of Electoral Administrators does not hold a view on this question. It is a matter for the Scottish Parliament to determine. AEA members will administer the process according to the legislation in force.

Question 5: What are your views on the Bill's approach as to who is entitled to vote?

The Association of Electoral Administrators does not hold a view on this question. It is a matter for the Scottish Parliament to determine. AEA members will administer the process according to the legislation in force.

However, whatever system is introduced it must be deliverable by the Electoral Registration Officers and Returning Officers.

Question 6: What are your views on the extent to which the Bill will provide for referendum polls and counts to be run in an efficient, transparent and fair manner?

The Bill mirrors other referendum and election legislation in the way polls and counts should be conducted and will therefore be conducted in a transparent and fair manner.

However, in relation to efficiency, current legislation, including this Bill, does not take into account the more efficient ways of working aligned with everyday living. For example, there is no provision to send poll cards via email. Likewise, there is provision for the adjournment of poll in case of riot 27 (1) as with other polls, however this provision is outdated and does not extend to other situations such as a terrorist attack or natural disaster, for example, a flood or severe weather.

In addition, you may wish to note in our recent response to the [PACAC inquiry examining the case for comprehensive reform of electoral law](#). Our response highlighted "that simplification, consolidation and modernisation of the legislation relating to electoral processes is long overdue and that without urgent and, in some cases, radical reform, significant and unnecessary risk will continue to exist within our democratic processes."

Question 7: What are your views on whether the Bill will ensure that campaigns in support of a referendum outcome are conducted in a fair and transparent manner?

This question is out of the Association of Electoral Administrators remit and therefore we do not hold a view on this matter.

Question 8: What are your views on the extent to which the provisions for franchise, conduct and campaigns within the Bill reflect lessons learnt from previous referendums within Scotland and the UK?

The Scottish Independence Referendum Act was passed nearly nine months ahead of the poll compared with legislation for the 2011 AV referendum which only laid three months ahead of polling day. The Electoral Commission recommended that future referendum legislation should be delivered to a similar timetable and standard as the Scottish Independence Referendum Act.

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The report also highlighted other important lessons, for example, holding a poll on such an important constitutional issue on a separate day from other elections helped both administrators and campaigners plan their activity more effectively and gave voters space to understand the issues.

The Electoral Management Board (EMB) of Scotland provided a crucial role in advising, supporting and guiding the work of all those administering the referendum which helped ensure success. The Electoral Commission had previously recommended that the EMB's role should be placed on a statutory footing for all national polls in Scotland and we continue to believe that this is the case.

The House of Commons Public Administration and Constitutional Affairs Committee also held an inquiry into the lessons that could be learned from the 2016 EU referendum for the conduct of future referendums. Following which a report was published: [Lessons Learned from the EU referendum](#).

Question 9: What are your views on whether the FM adequately identifies the financial implications of the Bill?

The financial memorandum appears to identify the financial implications of the Bill and we are pleased to note that electoral registration costs have been considered. Whilst the memorandum acknowledges the costs will have been reduced since the Scottish Independence Referendum as a result of Individual Electoral Registration (IER) being introduced, we would ask that these costs are kept under review at the time a referendum is held.

It is imperative that all actual and necessary reasonable costs are funded and that the full costs of conducting a referendum are met by the Scottish Government and not the local authority subsidising a national poll.

Provision may also need to be considered in case of higher costs being incurred due to a compressed timescale from the date the decision is made to hold a referendum and the date the referendum is held. The recent European Parliamentary election demonstrated that additional costs were incurred due to the late decision that the election would be held in the UK.

Question 10: Views on other aspects of the Bill?

As highlighted in our response to question 6, there is an urgent need for radical reform providing the simplification, consolidation, and modernisation of the legislation relating to electoral processes. The Bill is based on current outdated electoral processes which means unnecessary risk will continue to exist within our democratic processes. We would be happy to discuss this with you further.

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