

# **SCOTTISH PARLIAMENT (CONSTITUENCIES) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 1: Constituencies and regions***

9. Subsection (1) replaces the previous Schedule 1 of the Scotland Act, which makes provision for constituencies, regions and regional members in relation to the Scottish Parliament, with a new Schedule 1 which retains the number of constituencies in the Scottish Parliament at 73, with the 8 regions continuing to return 7 regional list members, thereby preserving the size of the Parliament at 129 Members.
10. Subsections (2) and (3) introduce Schedule 2, which makes provision to deal, if necessary, with the period before the functions of the Boundary Commission for Scotland are transferred to the Electoral Commission.
11. Subsection (4) provides that the first review of the Scottish Parliament constituencies and regions will not commence until after the next general election to the Scottish Parliament in 2007.
12. Subsection (5) is a consequential amendment. Schedule 1 of the Scotland Act had been substantially amended (prospectively) by paragraphs 17 to 24 of Schedule 3 to the Political Parties, Elections and Referendums Act 2000. Those provisions, concerning the transfer of functions from the Boundary Commission for Scotland to the Electoral Commission, are superseded by the provisions in this Act.

#### ***Section 2: Current reviews***

13. This *section* gives effect to the provisions in Schedule 3 concerning the current statutory review of Westminster constituencies and Scottish Parliament regions which is being carried out by the Boundary Commission for Scotland. The Boundary Commission are required to submit to the Secretary of State for Scotland, by December 2006, a report on Scottish Westminster constituencies. Under the Scotland Act before this Act, this report also had to include recommendations for consequential alterations to the regions for purposes of Scottish Parliament elections. Those recommendations would not have been relevant following the decoupling of the Scottish Parliament constituencies and regions from the Westminster constituencies. Schedule 3 provides that any recommendation on these regional boundaries must be ignored.

#### ***Schedule 1: Substitution of Schedule 1 to the Scotland Act 1998***

14. This Schedule is linked to sections 1 to 12 in the Scotland Act 1998 concerning elections. It replaces the previous Schedule 1 to the Scotland Act, specifies the constituencies and regions for purposes of the Scottish Parliament, provides for the Electoral Commission to review the boundaries of the constituencies and regions, and provides for the holding of local inquiries following any objections in relation to proposed changes.

15. Paragraphs 1 and 2 preserve the existing constituencies and regions, and the arrangements for election of regional members of the Parliament – 73 MSPs within the existing constituencies, and 56 list MSPs in 8 regions, with 7 members per region.
16. The provisions in this Schedule largely replicate the provisions for the review of Westminster constituencies set out in the Parliamentary Constituencies Act 1986 and existing provisions regarding the regions in Schedule 1 of the Scotland Act.
17. Paragraphs 3 and 4 provide for the regular review by the Electoral Commission of the boundaries of the constituencies and regions. Paragraph 3, sub-paragraph (4) requires the first review to be completed and reported on not later than 30 June 2010, and thus some time in advance of the general election to the Scottish Parliament in May 2011. The Electoral Commission are required at the same time as they submit their report to the Secretary of State to lay the report before the Scottish Parliament. The Scottish Parliament has no power to reject or to effect changes to the report, although it could debate it. The Secretary of State, as soon as practicable after the Electoral Commission have submitted their report to him, is required to lay that report before Parliament, along with a draft Order in Council for giving effect to the recommendations in the report.
18. Paragraph 5 sets out the procedures to be followed by the Boundary Committee for Scotland and the Electoral Commission in reviewing and making recommendations on the constituency and regional boundaries for the Scottish Parliament.
19. Paragraph 6 makes provision for the implementation of the Electoral Commission's recommendations by Order in Council, which must be approved in draft by each House of Parliament.
20. Paragraphs 7 and 8 require the Electoral Commission and the Boundary Committee for Scotland to give notice of their intention to consider making a report and of any proposed recommendations.
21. Paragraphs 9 to 11 give the Boundary Committee power to hold local inquiries and to compel witnesses.
22. Paragraphs 12 and 13 set out the rules for the conduct of constituency and regional reviews. These rules define how the electorate is to be established for each constituency and region and require the electorates to be similar respectively in each of the constituencies and regions, with the proviso that regard must be had to local authority boundaries, and geography and local ties may be taken into consideration. A constituency must fall wholly within a region.

### ***Schedule 2: Transitional modifications of Schedule 1 to the Scotland Act 1998***

23. This Schedule makes transitional provisions to deal, if necessary, with the position before the Electoral Commission takes over the functions of the Boundary Commission for Scotland. The Political Parties, Elections and Referendums Act 2000 provides that the Electoral Commission will in due course take on responsibility for determining Parliamentary electoral boundaries. It will establish four Boundary Committees, one for each part of the United Kingdom - the Scottish Committee will take over the present functions of the Boundary Commission for Scotland. That Commission will cease to exist when the Secretary of State for Scotland directs by order that he is satisfied that the Commission has no further functions to perform. The Government has indicated that the functions of the present Boundary Commissions will not transfer until after they have completed their current reviews.

### ***Schedule 3: Current Boundary Commission reviews***

24. The provisions of this Schedule (see also *Section 2*) ensure that any recommendations on changes to the regional boundaries included in the report of the Boundary Commission following their current review will not be acted upon.