

PARLIAMENTARY VOTING SYSTEM AND CONSTITUENCIES ACT 2011

EXPLANATORY NOTES

SUMMARY

4. A summary of the Act is set out below.

Part 1: Voting system for parliamentary elections

5. **Part 1** of the Act provides for a referendum on whether to change the voting system for UK parliamentary elections. The referendum is to be held on 5 May 2011, unless before that date the Minister makes an Order to appoint an alternative date for the referendum. Any date appointed by Order must fall before 31 October 2011. The Act prescribes the question that will be asked in that referendum as follows: ‘At present, the UK uses the “first past the post system” to elect MPs to the House of Commons. Should the “alternative vote” system be used instead?’ The Act makes provision for the franchise for the referendum, the referendum period (during which controls on spending and donations by campaigners will apply and the official “yes” and “no” campaigns are designated by the Electoral Commission), the conduct of the poll, including absent voting, the combination of the poll in the referendum with other polls taking place on the same day and how legal challenges to the result of the referendum may be brought. The Act also includes provisions which make the amendments to the existing electoral legislation that it would be necessary to make to implement the alternative vote system in the event of a “yes” vote in the referendum.
6. Further details on the alternative vote system are provided below.

Part 2: Parliamentary constituencies

7. **Part 2** of the Act provides that the number of parliamentary constituencies in the UK will be reduced to 600. It requires the Boundary Commissions to recommend constituency boundaries that ensure that the electorate of each constituency is no more than 5% more or less than the electoral quota for the UK. Factors are set out which the Commissions may have regard to when recommending constituency boundaries, subject to the parity principle. There will be four island constituencies expressly excepted from the parity principle, a limit on the geographical size of constituencies, and a method for resolving any complexities that may be caused in Northern Ireland by the need to round to a whole number of constituencies. Part 2 also sets out a timetable for the four Boundary Commissions to carry out their reviews of constituencies, and the consultation process for the Commissions’ recommendations. The next general reviews are to be completed by the end of September 2013 and subsequent reviews will take place every five years.

Background

General

8. The provisions contained in the Parliamentary Voting System and Constituencies Act 2011 give effect to a commitment contained in The Coalition: Our Programme for Government. The document can be found at:

http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf

9. This document set out the Government's intention to:

"...bring forward a Referendum Bill on electoral reform, which includes provision for the introduction of the Alternative Vote in the event of a positive result in the referendum, as well as for the creation of fewer and more equal sized constituencies.

10. This commitment forms part of a package of political reforms proposed by the Government, which also includes proposals to establish fixed term Parliaments, introduce a right of recall for MPs who have engaged in serious wrongdoing, reform the House of Lords and speed up implementation of individual voter registration.

11. The Bill was introduced into the Commons on 22 July 2010, and received Royal Assent on 16 February 2011.

12. The Bill was the subject of two reports of the Political and Constitutional Reform Committee, published on 27 July (1st Report of Session 2010-11) and 6 October 2010 (3rd Report of Session 2010-11), both of which are available at:

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/publications/>

13. The Government's response to this report was published as a Command Paper (Cm 8016) on 4 March 2011. This is available at:

<http://www.official-documents.gov.uk/document/cm79/7997/7997.asp>

14. The House of Lords Constitution Committee published their report on the Bill (7th Report of Session 2010-11) on 10 November 2010. This is available at:

<http://www.parliament.uk/business/committees/committees-a-z/lords-select/constitution-committee/publications/>

15. The Government's response to this report was published as a Command Paper (Cm 8016) on 11 February 2011. This is available at:

<http://www.official-documents.gov.uk/document/cm80/8016/8016.asp>

Part 1: Voting system for parliamentary elections

16. Elections to the House of Commons are currently run under the "first past the post" system of voting. Under this system, voters place a cross in the box next to the candidate they wish to vote for. The candidate with the greatest number of votes in the constituency wins and is elected as the MP.

17. The Act provides for the question of whether or not the UK should adopt the alternative vote system for future parliamentary elections to be decided in a national referendum.

18. The alternative vote system retains the idea of the single member constituency within a majoritarian voting system. In order to win under the existing 'first past the post' system a candidate requires only a plurality of the votes (in other words, to achieve more votes than any of the other candidates). Under the form of the alternative vote system provided for by the Act, candidates must achieve more than 50% of the votes in the count - either at the initial counting stage or, if necessary, at a further counting stage

These notes refer to the Parliamentary Voting System and Constituencies Act 2011 (c.1) which received Royal Assent on 16 February 2011

- in order to be elected. The alternative vote also contrasts with the existing electoral system in that voters may express a preference for as many or as few of the candidates on the ballot paper as they wish (they may vote for one candidate only if they wish). However, a key similarity between the two systems is that under both, a single member is elected to represent a single geographic constituency.

19. The key features of the alternative vote system set out in the Act are that:
 - Voters rank candidates on the ballot paper in order of preference, using 1, 2, 3 etc.
 - Voters may express a preference for as many or as few candidates as they wish. This means that a voter may vote for one candidate only if they wish. This is known as an “optional preferential” system.
 - If after the counting of voters’ first preferences, any candidate has more than 50% of the votes at this stage then he or she is declared the winner.
 - If no candidate has more than 50% of the votes counted, then there would be a further round of counting. The candidate in last place is eliminated, and each vote originally allocated to the eliminated candidate is reallocated to a remaining candidate according to the next preference expressed on each ballot paper.
 - Where there is no next preference given, the ballot paper cannot be reallocated and is no longer counted. If a candidate has more than 50% of the votes left in the count once this reallocation has taken place he or she is elected. If not, then a further round of counting will take place and the candidate now in last place is eliminated and their votes reallocated. This process continues until one candidate has more than 50% of the votes left in the count, and is elected.
20. A number of the key features of the conduct of a parliamentary election using the alternative vote system would broadly be the same as under the existing first past the post system, for example, in terms of the nomination of candidates, the provision of ballot papers and polling stations. However, changes would be required to certain areas of electoral law in order to hold an election under the alternative vote system, in particular the Parliamentary Elections Rules in Schedule 1 to the Representation of the People Act 1983 (“the 1983 Act”) which set out how a parliamentary election is to be conducted (these amendments are set out in section 9 of and Schedule 10 to this Act). Most of these amendments arise from the need to acknowledge the concept of preferential voting and that in the event of multiple preference voting there may be more than one round of counting. Existing rules are based on the idea of a vote that can only ever benefit one candidate and the related notion of a single count.

Part 2: Parliamentary constituencies

21. There are four Boundary Commissions in the UK: one each for England, Wales, Scotland and Northern Ireland. The Boundary Commissions are permanent bodies, of which the Speaker of the House of Commons is Chair, constituted under the Parliamentary Constituencies Act 1986 (“the 1986 Act”) which requires all the Commissions to keep the parliamentary constituencies under continuous review and periodically (every 8 to 12 years) to submit to the Secretary of State a report of their recommendations as to the constituencies into which their part of the UK should be divided. When a Commission submits a report to the Secretary of State, an Order in Council is laid before Parliament to give effect to the Commission’s recommendations and is debated prior to being made.
22. The Commissions are independent, non-political and totally impartial bodies. They emphasise very strongly that the results of previous elections do not and should not enter their considerations when they are deciding their recommendations. Nor do the Commissions consider the effects of their recommendations on future voting patterns.

These notes refer to the Parliamentary Voting System and Constituencies Act 2011 (c.1) which received Royal Assent on 16 February 2011

23. However, the present Rules for redistribution have been criticised by parliamentarians, academic commentators and, in its fifth Report, the Boundary Commission for England. An unintended effect of the drafting of the existing Rules according to which the Commissions make recommendations as to the boundaries of constituencies is that the number of MPs tends to increase at each general review. Furthermore, the current rules are contradictory, have no clear hierarchy, and do not prioritise equality in the number of electors per constituency, leading to large variations in the number of electors in each constituency. In addition, the review process is considered to be slow, particularly in England, where the fifth General Review took more than six years to complete. This leads to changes in boundaries which lag behind the movement of people. The inequality in electorate size also, as a result of provisions in the 1986 Act, applies between as well as within nations, resulting in fewer electors per constituency in Scotland, Northern Ireland and, in particular, Wales when compared with England.
24. [Part 2](#) of the Act replaces the existing Schedule 2 to the 1986 Act with a new set of Rules for the distribution of seats. The new Rules fix the size of the House of Commons at 600 members, provide for the number of constituencies in each part of the UK to be determined by reference to the size of the electorate in each part of the UK, and place a limit on the permitted variation in the number of registered electors for a constituency recommended by a Boundary Commission. As exceptions to this principle of electoral parity, the Act provides for two preserved constituencies in Scotland and for two constituencies on the Isle of Wight. The Act places a limit on the geographical size of a constituency, and makes provision to address the potential impact of rounding to a whole number when apportioning constituencies to Northern Ireland. Part 2 of the Act also reforms the process for conducting boundary reviews; in particular ending the practice of holding local inquiries. Instead there will be a longer period for written representations, public hearings to allow oral representations to be made, and the publication of representations received followed by an opportunity to make further written representations in response to them. Reports are due from the Commissions under this legislation before 1 October 2013 and every five years from that point. Finally, the legislation breaks the present link between Westminster constituencies and constituencies of the National Assembly for Wales.