

POLICY NOTE

The Scottish Elections (Reform) Act 2020 (Commencement No. 2 and Saving Provision) Regulations 2021

SSI 2020/124 (C. 8)

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 35(2) of the Scottish Elections (Reform) Act 2020. The instrument is not subject to any parliamentary procedure.

Purpose of the instrument.

The Regulations commence a number of provisions in the Scottish Elections (Reform) Act 2020 (“the 2020 Act”)¹. The commenced provisions relate to local government elections in Scotland. They provide for Scottish local government elections to be held every five years, and they allow local government electoral wards to comprise of between 2 and 5 councillors. The provisions also re-name the Local Government Boundary Commission for Scotland as Boundaries Scotland and confer powers on Boundaries Scotland to make proposals in relation to electoral areas and arrangements. They also make a number of associated procedural changes.

Policy Objectives

The 2020 Act sets out a number of changes in respect of Scottish Parliament and local government elections in Scotland. It changes the terms for Scottish Parliament and local government from four to five years; makes provision about the role of the Electoral Commission in relation to those elections; confers functions on the Electoral Management Board for Scotland in relation to Scottish parliamentary elections; and makes provision about the Local Government Boundary Commission for Scotland (LGBCS), including renaming it Boundaries Scotland.

A number of provisions of the Act have been brought into force by commencement regulations made before the date of these Regulations.

These Regulations will commence the following provisions of the 2020 Act on 14 May 2021:

Issue	Provisions
Term lengths	2 Dates of Scottish local government elections
Scottish local government elections	4 Electoral wards: number of councillors
Boundaries Scotland	28 Boundaries Scotland 29 Reviews of local government wards and number of councillors 30 Changes to boundaries of parliamentary constituencies:

¹ <https://www.legislation.gov.uk/asp/2020/12/contents>

	procedure 31 Changes to local government areas or electoral arrangements: procedure 32 Scottish Parliament constituency boundaries: timing of first report 33 Publishing of proposals affecting Scottish Parliament constituencies
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Commencement of the remaining provisions of the 2020 Act is intended to occur later, in discussion with relevant stakeholders, such as the Electoral Commission.

Saving provision

The Regulations contain a saving provision for Orders made under section 17 of the Local Government (Scotland) Act 1973. Section 31 of the 2020 Act substitutes a new section 17 into the 1973 Act which would call into question the continuing operation of all orders made under the old section 17 prior to commencement of section 31. While the substantive effect of the old section 17 and the new section 17 are in many places the same, old section 17 contains an order-making power while new section 17 contains a power to make regulations.

The policy intention is to ensure the continued operation of all extant orders made under section 17 as to do otherwise would call into question continuing boundary and other electoral arrangements provided under the powers in section 17. To avoid any doubt as to the continuing effect of orders made under the old section 17 of the 1973 Act, regulation 3 of the Commencement Regulations contains a saving provision ensuring that all orders made under section 17 of the 1973 Act which remain in force prior to the commencement of section 31 will remain in force despite the commencement of section 31.

Consultation

The policy objectives of the 2020 Act was subject to parliamentary scrutiny as a part of the parliamentary process² for the 2020 Act. The Policy Memorandum³ for the Bill that preceded the 2020 Act outlined the results of the Government consultation exercise conducted in relation to electoral reform held over 2017-18.

Commencement on 14 March 2021 of the provisions identified in these Regulations is a result of discussion on timing with the Local Government Boundary Commission for Scotland and other electoral professionals.

Impact Assessments

Impact assessments on the overall policy objectives of the 2020 Act were conducted in 2019 and are available at the following links:

² <https://beta.parliament.scot/bills/scottish-elections-reform-bill>

³ <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-elections-reform-bill/introduced/policy-memorandum-scottish-elections-reform-bill.pdf>

Equality Impact Assessment

<https://www.gov.scot/publications/scottish-elections-reform-bill-equality-impact-assessment/>

Business and Regulatory Impact Assessment

<https://www.gov.scot/publications/scottish-elections-reform-bill-business-regulatory-impact-assessment/pages/1/>

Child Rights and Wellbeing Impact Assessment

<https://www.gov.scot/publications/scottish-elections-reform-bill-child-rights-wellbeing-impact-assessment/>

Financial Effects

The financial effects on the Scottish Government, local government or on business are detailed in the BRIA and Financial Memorandum⁴ prepared in respect of the Bill that preceded the 2020 Act.

Scottish Government
Cabinet and Constitution Directorate

March 2021

⁴ <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-elections-reform-bill/introduced/financial-memorandum-scottish-elections-reform-bill.pdf>