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A single legal framework for UK elections

The UK needs a new, modern and rational legal framework to govern the conduct of elections and referendums, according to an interim report published today by the three Law Commissions of the UK.

Electoral law in the UK is spread across 17 major statutes and some 30 sets of regulations. It has become increasingly complex and fragmented, and difficult to use. The turn of the century saw a steady increase in the numbers and types of election, and each of these election types comes with its own set of rules and systems. When these elections take place on the same day, yet more complexity is introduced by rules governing the “combination” of polls.

In today’s interim report, the Law Commissions of England and Wales, Scotland and Northern Ireland outline the public response to their consultation on areas of electoral law that are in need of reform, and make recommendations to government for how that work might be done. The aim of the recommended reforms is to:

- rationalise the laws governing elections into a single, consistent legislative framework governing all elections and referendums,
- make electoral laws consistent across all types of election, and
- simplify and modernise out-of-date and complex laws, many of them Victorian in origin.

In particular, the Commissions are recommending that the process for challenging elections should be modernised, making it easier for parties to understand and use, and that judges be given the power, in appropriate cases, to limit the potential costs for challengers. The interim report also recommends that existing electoral offences be updated and made easier for the electorate, officials and prosecutors to understand, and that the maximum sentence for serious electoral offences be increased to 10 years.

Based on the interim report submitted by the three Law Commissions, governments will decide whether to ask the Commissions to proceed to the next stage of the project, which would involve submitting final recommendations for the reform of electoral law, along with draft legislation.

Nicholas Paines QC, Law Commissioner for public law, who is leading the project for the Law Commission of England and Wales, said: "Elections are fundamental to democracy. They are the mechanism by which citizens exercise their democratic rights. The price we pay as a democracy when the electoral process loses credibility is high and potentially catastrophic.

"Electoral law must be simplified, modernised and rationalised so that it can be more easily understood and used by administrators and candidates, and the public can have more certainty as to their rights. The law must be set out in such a way that policy development by Government, once properly scrutinised by Parliament, can be achieved by one legislative change, rather than a dozen spread out across several years. We are pleased to make these recommendations for reform and are hopeful that this opportunity to make electoral law more principled and efficient will be taken forward."

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Lord Pentland, Chairman of the Scottish Law Commission, said: "Inconsistencies and ambiguities risk undermining the credibility of our electoral process. It has become essential for electoral law throughout the UK to be streamlined and put into a modern, accessible and user-friendly format that is fit for the 21st century.

"Throughout the project, we have stressed that our recommendations will be made taking into account the existing and emerging devolutionary framework, and we look forward to discussing this further with the Scottish Government. We have been delighted to participate in this important work and hope that the interim report will be received favourably."

The Hon Mr Justice Maguire, Chairman of the Northern Ireland Law Commission, said: "The laws governing elections in Northern Ireland suffer equally from being spread out across different statutes and secondary legislation. In some cases older instruments are difficult for the public, or even legal professionals, to access. We are very pleased to recommend that the laws governing elections in Northern Ireland should be set out within a single and consistent legal framework and look forward to hearing the UK Government's response."

Notes for editors

1. The Law Commission and the Scottish Law Commission are non-political independent bodies, set up by Parliament in 1965 to keep all the law of England and Wales and of Scotland under review, and to recommend reform where it is needed.
2. The Northern Ireland Law Commission exists to review areas of the law and to make recommendations for reform. It was established under the Justice (Northern Ireland) Act 2002 (as amended by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010), and was set up in 2007 following the recommendations of the Criminal Justice Review Group.
3. For more details on this project, visit:
 - <http://www.lawcom.gov.uk/project/electoral-law/>
 - <http://www.scotlawcom.gov.uk/law-reform/law-reform-projects/joint-projects/electoral-law/>
 - http://www.nilawcommission.gov.uk/electoral_law_reform.htm
4. For all press queries please contact:
Phil Hodgson, Head of External Relations, Law Commission of England and Wales:
020 3334 3305
Jackie Samuel: 020 3334 3648
Email: communications@lawcommission.gsi.gov.uk