

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
NOT FOR PUBLICATION OR BROADCAST
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Reforming electoral law across the UK

The Scottish Law Commission is undertaking a review of UK electoral law at the request of Scottish Ministers and UK Ministers. The review, which will be conducted jointly with the Law Commission for England and Wales and the Northern Ireland Law Commission, aims to reform the law relating to elections and referendums across the UK.

Electoral law in the UK is spread across 25 major statutes. It has become increasingly complex and fragmented. In addition, recent years have seen a steady increase in the numbers and types of election. Today, the electorate may be asked to vote – at the same time – for a range of representatives. Each type of election comes with its own set of rules and systems, and combining different types into one electoral event introduces yet more layers of electoral law.

In a three-month, public consultation held this summer, many of the people involved in setting up, managing, taking part in and voting in elections were asked which areas of the law should be reviewed.

Consultees gave unanimous support to the UK-wide review and agreed that the aims should be to:

- review the legislative framework for electoral law to provide a clear, principled and consistent structure for setting out electoral laws
- review electoral administration law to rationalise, simplify and modernise the rules governing the conduct of all elections, so as to reduce the risk of mistakes
- identify where the electoral process – and the electorate – would benefit from rules that are more specific and clear, and
- recommend areas where existing rules could be less prescriptive and more flexible to reduce the complexity and volume of laws, and reflect the best interests of voters.

The majority of respondents to the consultation, including electoral administrators, also agreed that the project should focus on technical electoral administration law rather than matters such as voting systems, franchise and electoral boundaries.

The reform will also consider the circumstances under which electoral administration might be challenged. The current legalistic system of challenge leaves little room for investigating, and drawing conclusions from, a complaint about how an election was run if the outcome of the election was not affected.

Lady Clark of Calton, Chairman of the Commission, said:

“We very much welcome this opportunity to work with our partner Law Commissions to bring much-needed clarity to electoral law.

Electoral law across the UK continues to become more complex, presenting challenges to administrators, candidates and voters. It must be rationalised and modernised if we are to preserve the confidence of the electorate in the process by which our democratic representatives are chosen.”

The three Commissions aim to develop proposals for reform that will be open to consultation late in 2014. Any consultation paper will not be issued until after the independence referendum in autumn 2014.

“Electoral Law in the United Kingdom: a scoping report” is published by the Law Commission for England and Wales and is available on <http://www.lawcom.gov.uk>. The scoping exercise was conducted in co-operation with the Scottish Law Commission and the Northern Ireland Law Commission.

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lady Clark of Calton, a Court of Session judge. The other Commissioners are Laura J Dunlop QC, Patrick Layden QC TD, Professor Hector L MacQueen, and Dr Andrew J M Steven. The Chief Executive is Malcolm McMillan.

2. The scope of the project is limited to technical aspects of electoral law governing the administration of elections and does not include issues such as the voting system or who can vote. The review will not impact on the forthcoming referendum on independence.

3. Further information can be obtained by contacting Malcolm McMillan, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gsi.gov.uk).

4. Further information on the Scottish Law Commission is available on our website at <http://www.scotlawcom.gov.uk/>.