

EAST AYRSHIRE COUNCIL

SPECIAL MEETING OF THE POLICY AND RESOURCES COMMITTEE 23rd MAY 2001

LOCAL GOVERNMENT (TIMING OF ELECTIONS)(SCOTLAND) BILL

Report by the Director of Corporate Resources

1. PURPOSE OF REPORT

The purposes of this report are to present for members' consideration the proposed arrangements for synchronising future Scottish Parliament and local government elections and to propose a response to current consultation by the Scottish Executive.

2. BACKGROUND

The Scottish Executive, as part of their response to the McIntosh Report, consulted on the term and timing of local government elections (whether there should be a three or four year term and whether elections should be synchronised with the elections for the Scottish Parliament or staggered). Respondents largely favoured a four year term for councils (rather than the present three years) and favoured simultaneous elections. This Council considered and approved its response at the Council meeting of 4th November 1999.

The Scottish Executive is now consulting on the terms of draft legislation to implement a four year term and simultaneous elections.

3. DRAFT PROPOSALS

3.1 Background to the proposed legislation

The Scotland Act 1998 regulates the procedure for elections to the Scottish Parliament.

It provides for ordinary general elections to be held on the first Thursday in May in the fourth calendar year following the year in which the previous ordinary general elections were held.

The Presiding Officer may however propose alternative arrangements for an ordinary general election to be held within 1 month before or after the first Thursday in May - presumably he would do this only where circumstances warranted it and those circumstances might equally apply to local government (e.g. a national emergency or the like). A change in timing would require a royal proclamation to implement.

There is also provision in the 1998 Act for extraordinary general elections to be held in two circumstances:

- (a) If the Parliament, by two-thirds' resolution (based on the number of seats), resolves to dissolve
- (b) If the Parliament fails to nominate a First Minister within the time allowed for this.

The effect of either of these factors is to require an extraordinary general election to be held. This would normally not impact on the normal schedule for ordinary general elections **unless** an ordinary general election were due to be held within the subsequent 6 months (in which case that ordinary general election would not be held).

Extraordinary general elections do not affect the year in which the **subsequent** ordinary general election is to be held.

3.2. Impact on council elections of the draft proposals

3.2.1. In summary the draft Bill currently provides:

- (a) That, where, in a normal election year for local government, the Presiding Officer proposes a date for an ordinary (or extraordinary) general election for the Scottish Parliament, Scottish Ministers may provide that the local government elections will be held on the same day.
- (b) That, where an extraordinary general election for the Scottish Parliament is to be held in any year other than a normal election year for local government, the Scottish Ministers may provide that ordinary local government elections shall be held that year (on the same day).
- (c) The draft Bill includes consequential amendments, required as a result of these proposals, to the term of office of existing councillors and conveners and deputy conveners.

3.2.2. The impact of these proposals would be:

In case (a) above:

- (1) to either bring forward or delay the local government elections by up to one month (to coincide with an **ordinary** general election of the Scottish Parliament), affecting the term of office by that period of time or
- (2) to bring forward or delay the local government elections in order for them to coincide with an **extraordinary** general election for the Scottish Parliament. Depending on when the extraordinary general election were to be held, this could, in theory, bring the local

government elections forward by anything up to 4 months or so, or delay them for up to (almost) 7 months. This would either shorten the current term of office by the period of time concerned and extend the new term by the same length of time (or vice versa). If the local elections are brought forward for a period not exceeding 6 months, the next normal elections would not be held.

The level of disruption envisaged by the circumstances in paragraph (2) above may be felt to be unacceptable; the alternative however would be two elections (Scottish Parliament and local government) being held within a period of approximately six months.

In case (b) above:

- (1) If the local election is brought forward for a period not exceeding 6 months, the next normal election would not be held.
- (2) If the local election is brought forward for a period of more than 6 months, the next normal election would require to be held.
- (3) This could mean, for example, that the term of office in local government in such circumstances could be reduced to (less than) one, two or three years (with a further election for local government in three, two, or one years' time respectively).

4.0 LEGAL AND FINANCIAL IMPLICATIONS

None as a direct result of this report.

5.0 POLICY IMPLICATIONS

Recommendations do not conflict with previous decision by Council.

6.0 CONCLUSIONS

- 6.1 Synchronising ordinary local government elections with ordinary general elections for the Scottish Parliament might lead, at worst, to disruption to councils by a change in timing of their elections by up to one month.

Under the present draft proposals, the synchronising of Scottish Parliamentary and local government elections could have a significant impact, unforeseen at the time of the original consultation.

If power to synchronise local government elections with extraordinary general elections for the Scottish Parliament is withheld, then only in a local government election year (and if the circumstances within the Scottish Parliament led to an extraordinary general election being required in the six months prior to the normal date) could there fail to be simultaneous elections that year. This could lead, at worst, to the electorate being expected to turn out to two elections within one year.

Whilst extraordinary general elections for the Scottish Parliament may be thought to be unlikely, their necessity cannot be predicted in advance. Should one be required, under the current proposals Scottish Ministers would have the power to call a local government election, with the potential consequences for additional, intermediate elections and for interrupted terms of office.

Although the principle of synchronising Scottish Parliament and local government elections has been accepted, there seems to be no necessity to assume that a local government election should be called, with its consequent impact, on every occasion on which there is a Scottish Parliament election. In the particular types of circumstances in which an extraordinary general election may be required for the Scottish Parliament there seems no reason why there should necessarily be a requirement for local government elections.

Where there is no requirement, there seems no necessity to provide an enabling power to Scottish Ministers to synchronise ordinary local government elections with extraordinary Scottish Parliamentary elections.

7.0 RECOMMENDATION

That, if members are so minded, a response be sent to the Scottish Executive and to COSLA in the following terms:

- (a) reiterating this Council's support for a four year term of office in local government and, in principle, for simultaneous elections for the Scottish Parliament and local government
- (b) indicating that disruption and additional elections for local government should be avoided wherever possible in the interests of the electorate, the democratic integrity of local government and of economy.
- (c) that, consequently, the dates of ordinary local government elections should only be changed to correspond with ordinary general elections, and not with any extraordinary general elections, of the Scottish Parliament

Barbara Haughan
Head of Administrative and Legal Services
14th May 2001

BACKGROUND PAPERS

Consultation paper issued by Scottish Executive

For further information on the contents of the report contact Barbara Haughan, Head of Administrative and Legal Services on 01563 576061.

Any person wishing to inspect the background paper should contact Bill Walkinshaw on 01563 576135

Implementation Officer: Barbara Haughan, Head of Administrative and Legal Services

AGENDA