

LOCAL GOVERNANCE (SCOTLAND) ACT 2004

EXPLANATORY NOTES

THE ACT — SECTION BY SECTION

Part 1 – Local government elections

Section 4 – Reviews of electoral arrangements

11. Subsection (1) requires the Boundary Commission to conduct a review of electoral arrangements in the light of the introduction of the STV system and to formulate proposals for future arrangements. This review is to be carried out as soon as it can be done after commencement of this section. The procedure for this review is set out in Part II of the [Local Government \(Scotland\) Act 1973 \(c.65\)](#) (“the 1973 Act”). Subsection (2) modifies that procedure for the purpose of this review to allow the Scottish Ministers to require the Boundary Commission to submit its report by a date specified by them and to remove the Scottish Ministers’ discretion not to make an order following submission of the report. This enables the Scottish Ministers to ensure that the review of electoral arrangements is carried out and an order is made in time for the next local elections.
12. Subsection (3) ensures that for this first review the Boundary Commission will have to give reasons to the council for any differences between the ward boundaries it proposes and the ward boundaries that would have resulted if existing wards were combined. Subsection (4) makes clear that the Boundary Commission shall not take account of its duty to give reasons to the council for any differences in ward boundaries when formulating its proposals for future arrangements. The Boundary Commission will formulate their proposals for revised ward boundaries in accordance with the criteria in Schedule 6 to the 1973 Act, as amended.
13. Subsection (5) makes a number of amendments to provisions about the review of electoral arrangements.
14. Subsection (5)(a) amends section 16(2) of the 1973 Act to alter the timing of subsequent reviews by the Boundary Commission in consequence of the requirement to carry out a review under subsection (1).
15. Subsection (5)(b) provides that the Boundary Commission must consult individual councils on their initial proposals for revised ward boundaries in the council area 2 months before issuing those proposals for wider consultation under section 18(2)(b) of the 1973 Act. It also gives the Scottish Ministers a power to give directions to the Boundary Commission and councils in relation to the consultation with councils at the beginning of any review process under section 18(2)(a) of the 1973 Act.
16. Section 20 of the 1973 Act deals with the first review of electoral arrangements after 1st April 1996. This provision is now spent and is accordingly repealed by subsection (5) (c).
17. Subsection (5)(d) amends the 1973 Act definition of “electoral arrangements” to allow the Boundary Commission to review the number of councillors to be returned for each ward. It is not necessary to carry out such a review under the first past the post

*These notes relate to the Local Governance (Scotland) Act
2004 (asp 9) which received Royal Assent on 29 July 2004*

system but, because section 1(2) and (3) allows there to be either 3 or 4 councillors per ward under the STV system, the effect of the amendment is to require the Boundary Commission to consider whether there should be 3 or 4 councillors for each ward as part of its review.

18. Subsection (5)(e) and (f) contain amendments which are consequential on the provision made elsewhere in section 4. In particular subsection (5)(f) repeals Schedule 5 to the 1973 Act. That Schedule made provision for the first review of electoral arrangements by the Local Government Boundary Commission after 1st April 1996.
19. Subsection (5)(g) and (h) amend Schedule 6 to the 1973 Act which contains the rules that the Boundary Commission and the Scottish Ministers must comply with, so far as reasonably practicable, when considering the electoral arrangements for local government areas. The rule contained in paragraph 1(2) of Schedule 6 was designed to ensure that within each local government area the number of electors represented by each member is more or less the same. The formulation for the first past the post system was that the number of local government electors shall be as nearly as may be the same in every electoral ward of a local government area. With the introduction of 3 and 4 member wards this formulation would not deliver such parity. Paragraph 1(2) of Schedule 6 is amended to ensure that in a local government area every councillor is returned in relation to the same or nearly the same number of electors. Schedule 6 has also been amended to provide that if there is any conflict between the duties of the Boundary Commission to have regard to identifiable boundaries and local ties, greater weight should be given to local ties.