



Referendums (Scotland) Act 2020

2020 asp 2

Referendums

1 Referendums to which this Act applies

- (1) This Act applies to any referendum held throughout Scotland in pursuance of provision made by or under an Act of the Scottish Parliament.
- (2) In this Act—
 - (a) references to “the referendum” mean any referendum held—
 - (i) in pursuance of any provision made by or under an Act of the Scottish Parliament,
 - (ii) on one or more questions specified in or in accordance with any such provision,
 - (b) “question” includes proposition (and “answer” accordingly includes response).

2 Referendum questions

- (1) Subsections (2) and (3) apply where—
 - (a) provision is made by or under an Act of the Scottish Parliament for the holding of a referendum throughout Scotland, and
 - (b) the wording of any question in the referendum is to be specified in subordinate legislation.
- (2) If the subordinate legislation is subject to the affirmative procedure, the Scottish Ministers must consult the Electoral Commission on the wording of the question before a draft of any instrument containing the subordinate legislation is laid before the Scottish Parliament.
- (3) If the subordinate legislation is subject to the negative procedure, the Scottish Ministers must consult the Electoral Commission on the wording of the question before making the subordinate legislation.
- (4) Subsection (5) applies where a Bill is introduced to the Scottish Parliament which—
 - (a) provides for the holding of a referendum throughout Scotland, and
 - (b) specifies the wording of the question.

Status: This is the original version (as it was originally enacted).

- (5) The Electoral Commission must—
- (a) consider the wording of the question, and
 - (b) publish a statement of any views of the Commission as to the intelligibility of the question—
 - (i) as soon as reasonably practicable after the Bill is introduced, and
 - (ii) in such manner as they may determine.
- (6) Where the Bill or subordinate legislation specifies not only the question but also any statement which is to precede the question on the ballot paper at the referendum, any reference in subsection (2), (3) or, as the case may be, (5) to the question is to be read as a reference to the question and the statement taken together.
- (7) This section does not apply in relation to a question or statement if the Electoral Commission have, in the validity period—
- (a) published a report setting out their views as to the intelligibility of the question or statement, or
 - (b) recommended the wording of the question or statement.
- (8) In subsection (7), the “validity period” means—
- (a) the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls, or
 - (b) if subsection (9) applies, the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls and the preceding session.
- (9) This subsection applies if the Scottish Parliament, on a motion by a member of the Scottish Government, resolves that the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
- (10) Before lodging a motion referred to in subsection (9), the Scottish Ministers must consult the Electoral Commission.
- (11) At the same time as lodging a motion referred to in subsection (9), the Scottish Ministers must lay before the Scottish Parliament a document setting out the reasons why they consider the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
- (12) In subsection (8), for the purpose of reckoning the number of sessions in a period, any extraordinary general election in that period is to be disregarded unless it is one which results in section 3(3) of the Scotland Act 1998 having effect.
- (13) As soon as reasonably practicable after being consulted under subsection (2), (3) or (10), the Electoral Commission must—
- (a) lay before the Scottish Parliament a statement of any views of the Commission on the matter, and
 - (b) publish the statement in such manner as the Commission may determine.
- (14) If the Scottish Parliament resolves to consult the Electoral Commission on the wording of a question or statement in a referendum, the Commission must, as soon as reasonably practicable—
- (a) lay before the Scottish Parliament a statement of any views of the Commission on that question or statement, and
 - (b) publish the statement in such manner as the Commission may determine.