



The Arbuthnott report and Scottish elections

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The Commission on Boundary Differences and Voting Systems was established to look into the consequences of having four different voting systems in Scotland, and different boundaries between Westminster and Holyrood. The Commission was chaired by Sir John Arbuthnott and published its report on 19 January 2006. This Note examines the Commission's recommendations and subsequent consideration of the report by the House of Commons. Details of the Government's response to the report are also given. Local elections and Scottish Parliament elections were held on 3 May 2007 and there have been reports of large numbers of spoiled ballot papers; the final sections of the Note give a brief review of the press reports about the elections and explain the procedure for challenging an election in Scotland.

Contents

A.	Background	3
B.	The Report	4
1.	Boundaries	5
2.	Voting	6
3.	Representation	9
4.	Reaction to the report	10
C.	Consideration of the report by the Scottish Affairs Committee	12
D.	Westminster Hall debate on the report on 20 July 2006	14
E.	The Government's response to the Arbuthnott report	17
F.	The Scottish Executive's response to the Arbuthnott report	19
G.	Local and Scottish Parliament elections on 3 May 2007	21
1.	Statement by the Secretary of State for Scotland	23
2.	Electoral Commission review of the Scottish elections	25
H.	Election petitions	26

A. Background

The provisions of the *Scottish Parliament (Constituencies) Act 2004* which removed the statutory link between the constituencies for the Scottish Parliament and those for the House of Commons mean that the constituency boundaries are no longer coterminous now that the recommendations in the Boundary Commission for Scotland's fifth review have been implemented (at the May 2005 General Election). Responses to a consultation paper on the size of the Scottish Parliament which preceded the *Scottish Parliament (Constituencies) Bill* raised concerns about different boundaries for Westminster and Scottish Parliament constituencies. Helen Liddell, then Secretary of State for Scotland, made a statement on the outcome of this consultation exercise on 18 December 2002. Mrs Liddell acknowledged the concerns about the operation of different boundaries for Westminster and Holyrood and proposed that an independent commission should be established 'to examine and make recommendations on issues caused by different boundaries.'¹ However, she did not propose to establish the commission until after the Scottish Parliament elections in 2007.

During the second reading debate on the *Scottish Parliament (Constituencies) Bill*, the Secretary of State for Scotland, Alistair Darling, announced that:

I have come to the view that we need to consider such questions not in 2007 but this year. I shall inform the House how I intend to take this matter forward, taking account of some significant changes that have occurred following the Scottish Parliament election last May. As the House will know, the Scottish Parliament is currently considering legislation that, if enacted, would lead to councils in Scotland being elected by the single transferable vote from 2007. Therefore, Scotland now faces the prospect of four different voting systems for an electorate of just over 3.8 million: for UK general elections, the first-past-the-post system; for European elections, a PR list system; for Holyrood, the additional member system; and, if the legislation goes through, STV for local government. In addition, the further complication exists that local government elections in Scotland are expected to take place on the same day as the Holyrood election.²

Mr Darling set out the terms of reference for the commission:

It will examine the consequences of having four different voting systems in Scotland, and different boundaries between Westminster and Holyrood. It will consider the implications for voter participation, the relationship between public bodies and authorities in Scotland and MPs and MSPs, and the representation of constituents by different tiers of elected members. It will be asked to make representations on whether the consequences require action to be taken in respect of arrangements between elected representatives, to ensure that constituents and organisations receive the best possible service; the pattern of electoral boundaries in Scotland; the relationship with other public bodies and authorities in Scotland; and the method of voting in Scottish parliamentary elections.

The commission will be independent. It will consider the case for change, and make recommendations to me and to the First Minister. I intend to discuss the chairmanship

¹ HC Deb 18 December 2002 Vol 396 c859

² HC Deb 9 February 2004 Vol 417 c1150

and membership of the commission with the other political parties in the House, and I will announce its membership in due course.³

The Commission on Boundary Differences and Voting Systems was set up in July 2004 under the chairmanship of Professor Sir John Arbuthnott and held its first meeting on 9 September 2004. In a press notice issued on 8 December 2004 Sir John Arbuthnott announced the Commission's future programme of work:

We are now set to launch early in the New Year a wide-ranging and open public inquiry into the issues covered by our remit. As well as issuing a consultation paper, we will be going out to key areas across Scotland to listen to people's views. We are also arranging to meet shortly with Maps, MSPs and MPs, and to hold a seminar with academic experts. Other information gathering sessions will be held as our work develops. We are aiming to report to the Secretary of State and the First Minister by the end of 2005.

B. The Report

The Commission published its report, *Putting Citizens First: Boundaries, Voting and Representation in Scotland* on 19 January 2006.⁴ The recommendations were summarised in a news release:

- The current mixed member system for electing the Scottish Parliament should be retained, but with open lists to increase voter choice.
- Constituency and regional boundaries for the Scottish Parliament should be based on local authority areas rather than Westminster constituencies, with the regions revised to better reflect natural local communities.
- Candidates for election to the Scottish Parliament should not be prohibited from standing in a constituency and on the regional list.
- Clearer and more positive roles should be developed for constituency and regional MSPs.
- The single transferable vote system should be introduced for European parliamentary elections.
- Scottish Parliament and local government elections should be held on different days.

³ HC Deb 9 February 2004 Vol 417 c1151

⁴ Available on the Scotland Office website at <http://www.scotlandoffice.gov.uk/uploads/Final%20version%20of%20report.pdf>

1. Boundaries

The Commission had invited views on the consequences of having different boundaries between Westminster and Scottish Parliament constituencies and found that there was a range of opinions in the responses from the political parties and from elected representatives. The political parties generally agreed that coterminosity was desirable but there was concern that the Holyrood boundaries would change each time there were changes made to the Westminster boundaries. MPs were more concerned that the boundaries should be coterminous than MSPs. The Scotland Branch of the Association of the Electoral Administrators and the Scottish Assessors Association supported common boundaries believing that there would be an increase in voter confusion and practical implications for the organization of elections if they were not coterminous. However the Commission found that individuals interviewed in its focus groups showed little interest in the location of boundaries and indicated that this was not an issue which would dissuade them from voting. The Electoral Commission had advised that there was no evidence in Scotland to suggest that boundary issues had an impact on turnout at elections. This was also indicated by international evidence which showed that non-coterminosity was normal in most countries which have multi-level government.

The Commission examined different options for achieving co-terminosity:

- 2 MSPs for each new Westminster constituency (2X59), with 11 additional MSPs.
- 60 constituency members and 60 (or 69) members from a regional or a national list
- a hybrid system, with single member rural constituencies and multi-member seats in the cities and urban areas

However it concluded that 'none of the options would provide an appropriate or desirable solution to the range of concerns which it had been asked to address.'⁵ The Commission reported that it had not been convinced by the argument that the boundaries for all Parliamentary contests in Scotland needed to be the same, but there was a 'strong case for rationalising the very wide range of boundaries that apply to elections, to the delivery of services, and to the organization of public bodies.'⁶

The Commission also looked at the balance between the representation of people and of communities and suggested that this balance has swung too far in favour of the equal division of the population at the expense of the community. The Commission noted that the Boundary Commissions have tended to tolerate progressively smaller deviations from the electoral quota in their successive reviews. The Boundary Commissions are required to give effect to the Rules for Redistribution of Seats when reviewing constituencies and making their recommendations. Rule 5 requires the electorate of any constituency to be as near the electoral quota as possible. Rule 4 already requires the Commissioners to have regard to the boundaries of local authority areas in Scotland although the Commissioners may depart from the strict application of this rule to avoid an excessive disparity between the electorate of any constituency and the electoral quota. For further information about the Rules and the

⁵ Para 3.17, Putting Citizens First: Boundaries, Voting and Representation in Scotland, Commission on Boundary Differences and Voting Systems, 2006.

⁶ Ibid, para 2.14,

current (fifth) periodical review of Parliamentary constituencies see Library Standard Note SN/PC/3222.⁷

The Commission concluded that the logical basis for creating constituencies should be the local authority area:

Our conclusion should not be a surprising one. Counties and Burghs have always been the basis of Parliamentary representation and the Boundary Commission for Scotland still tries (as the rules require) to avoid crossing local authority boundaries when it can. But the primacy of the parity rule sometimes makes this impossible. By using only council areas as the building blocks for Scottish Parliamentary constituencies, boundaries coterminous with Westminster constituencies will in some places be achieved, but where that is not possible it is much better to use the original building block than something that has been derived from it.⁸

The Commission also suggested that it was more important for the regions of Scotland to have a natural identity than that they all return the same number of MSPs, even if this resulted in some loss of proportionality, and drew up possible models of new constituencies and regions for the Scottish Parliament. The models were based on the Commission's proposals for new rules for structuring boundaries.⁹

The Commission's final recommendations concerning boundaries were as follows:

- Having the same constituencies for the Scottish Parliament and Westminster is desirable but not essential and should not be a driver of change to the electoral system for the Scottish Parliament.
- The boundaries for Scottish Parliamentary constituencies should be within and respect local authority areas rather than Westminster constituencies.
- The Scottish Parliament regions should be revised to reflect natural local communities and identity and should be built on local authority areas.
- The functions of the Boundary Commission for Scotland and the Local Government Boundary Commission for Scotland should be combined to enable the constituencies and regions for the Scottish Parliament and local authorities to be reviewed together. Consideration should also be given to integrating the review of Westminster constituencies in Scotland into this process.¹⁰

2. Voting

At present the 73 MSPs who represent Parliamentary constituencies are elected by the first past the post system. The 56 regional MSPs, 7 for each of the 8 regions, are elected by the

⁷ Available at <http://www.parliament.uk/commons/lib/research/notes/snpc-03222.pdf>

⁸ Para 3.29, Putting Citizens First: Boundaries, Voting and Representation in Scotland, Commission on Boundary Differences and Voting Systems, 2006.

⁹ Ibid, para 3.38

¹⁰ Ibid, p21

Additional Member System of proportional representation. The Commission gathered extensive evidence on the operation of the current system and identified three main problems with the mixed member system: voter confusion; legitimacy and voter choice, and issues of representation.

Voter confusion

The Commission found that there were problems with the public understanding of the electoral system, in particular the purpose of the regional vote: 'often presented as a "second vote" many voters appear mistakenly to assume that the regional vote is intended as an expression of their second preference'.¹¹ The 1999 and 2003 Scottish Social Attitudes Surveys conducted after the Scottish Parliament elections, found that '40% of respondents thought it "very" or "fairly" difficult to understand how seats were allocated in the Scottish Parliament.'¹²

The Commission said that it was strongly of the view that information should be provided to voters in advance of every election which would explain how the ballot papers should be completed and how the votes would be counted and translated into seats. It expressed concern about the lack of voter understanding of the electoral system and made the following final recommendations:

- The language used to describe the mixed member electoral system for the Scottish Parliament should clearly explain the "constituency vote" and "regional vote". The term "second vote" is misleading and should not be used. Where possible, the term "mixed member system" should be used rather than "additional member system". The voting system for the Scottish Parliament should also be presented as a system in its own right and not as an adaptation of first past the post.
- The Electoral Commission should clarify the purpose of the regional vote and in particular revise the design of the ballot papers used in Scottish Parliament elections with the aim of conveying better the way the voting system operates.¹³

The Commission considered evidence that holding Scottish Parliament and local government elections on the same day led to increased voter confusion. The majority of those making representations were in favour of decoupling the two elections for this reason. However the Labour Party favoured continuing to hold the elections on the same day as this was more likely to improve turnout. The Commission decided to recommend that the elections should be decoupled because this would

...reduce the complexity of voting, potentially reduce voter confusion and help keep the number of invalid votes to a minimum. It would also reduce administrative complexity in the planning, management and counting of elections, and enhance the

¹¹ Ibid, p31

¹² Ibid, p32

¹³ Ibid, p52

transparency of the electoral process, especially allowing attention to be focused on local issues.¹⁴

Legitimacy and voter choice

The election of regional MSPs is on the basis of closed party lists with the political parties deciding the order of the candidates on the list. The Commission found that in some cases the list was decided by a ballot of all party members but in others the order was decided by party delegates. The Scottish Social Attitudes Survey 2003 found a high degree of opposition to the party control of the lists. Representations were made that the lack of voter choice over the selection and election of regional list MSPs seemed to undermine their legitimacy and that this was exacerbated when candidates who had been defeated in the constituency contest were then elected via the regional party list, the 'dual candidacy' issue. The Commission noted that 'in the 2003 Scottish Parliament elections 88% of the successful regional MSPs had fought, and lost, a constituency seat'.¹⁵

However the Commission found that there was no survey evidence to suggest that dual candidacy was an issue for the electorate. Dual candidacy is a feature of mixed member proportional systems across the world and the Commission suggested that 'dual candidacy only seems problematic to some people here because of the legacy of constituency representation within British political culture and the hegemony which this has secured for some parties'.¹⁶ The Commission decided that preventing dual candidacy would be undemocratic and recommended that the current system should be revised by replacing closed lists with open lists:

- The mixed member proportional system for elections to the Scottish Parliament should be retained, but revised.
- In order to give voters more choice over the election of regional members, the closed list system should be replaced by open lists. The Electoral Commission should investigate how best to devise such a system, while minimising complexity for voters.
- Candidates for election to the Scottish Parliament should not be prohibited from standing in a constituency and on the regional list at the same election.
- Restricting voter choice by removing the regional vote and introducing a one-vote system is not acceptable. The two vote system should be retained for Scottish Parliament elections.
- The mixed member system should continue to be based on regional lists rather than a national list.
- Our revised electoral system, if implemented, should be reviewed following the experience of two elections. If further reform is judged necessary, consideration should be given at that time to introducing the single transferable vote for Scottish Parliament elections.¹⁷

¹⁴ Ibid, p50

¹⁵ Ibid, p34

¹⁶ Ibid, p44

¹⁷ Ibid, p53

The Commission also looked at whether the Scottish Parliament should be elected by the single transferable vote. Although acknowledging that the system had some advantages over a mixed member system and would address some of the problems associated with the existing arrangements the Commission also thought that there were disadvantages associated with STV which meant they could not recommend it for elections to the Scottish Parliament at this stage notwithstanding that it is to be introduced for Scottish local government elections from 2007 and that the Commission recommended that it should be used to elect Scottish Members to the European Parliament. The Commission also recommended that the revised electoral system should be reviewed after two elections when consideration should again be given to the introduction of STV for Scottish Parliament elections.

Issues of representation

MSPs directly elected for a constituency have a clear responsibility as regards constituency case work; the situation is less well defined for regional MSPs and this has led to tensions between the two categories of elected members. The Commission found that problems in this area were exacerbated by the present party imbalance between constituency MSPs (predominantly of the governing parties) and regional MSPs (mainly representing opposition parties).

3. Representation

The Commission reported that the electoral system for the Scottish Parliament has an impact on the roles of MSPs, 'to pass laws, keep a check on the activities of the Scottish Executive and act as a forum for national debate and for expressing the opinions of the Scottish people' by creating two different types of member.¹⁸ The Commission found through its surveys and focus groups that there was a lack of public understanding of the roles and responsibilities of MSPs. There was also confusion about the different responsibilities of the Westminster and Scottish Parliaments.

The Commission called for an improvement in the code of conduct for MSPs to provide guidance which would help to create a more positive role for both regional and constituency members. Its final recommendations on these issues are as follows:

- Citizens should not be restricted in their freedom to access any of their elected representatives on any issue.
- The code of conduct for Members of the Scottish Parliament should be revised to provide a clear and positive role for both constituency and regional members to enhance representation for constituents and improve scrutiny of local and national services.
- The Scottish Parliament should consider how the role of the Presiding Officer could be strengthened to ensure compliance with the code of conduct.

¹⁸ Ibid, p57

- All MSPs should be entitled to deal with constituency work, but we expect this to be primarily undertaken by constituency MSPs. All MSPs should be entitled to deal with issues raised by constituents affecting a wider area, but these should primarily be dealt with by regional MSPs.¹⁹

4. Reaction to the report

The *Aberdeen Press and Journal* reported the reactions of Scottish MPs to the Arbuthnott Commission's decision not to ban dual candidacy:

Scottish Labour MPs last night rounded on a report flatly rejecting their demand for a ban on local candidates for the Scottish Parliament also standing as regional "top-up" MSPs. Sixty-six - including Aberdeen North's Frank Doran, Aberdeen South's Anne Begg, Dundee West's Jim McGovern and Ochil and South Perthshire's Gordon Banks - signed a Commons motion demanding the Scottish Parliament follow the example of the Welsh Assembly...

Falkirk Labour MP Eric Joyce said the report was "thoroughly wrong and missed the crux of the issue." He said voters could not understand how someone could come a "poor third" in an election for a Scottish Parliament constituency and still become an MSP because he or she was on a party's regional list...

Miss Begg said: "I think there is something undemocratic when people who lose badly in one election under first-past-the-post then come back as regional MSPs. Arbuthnott has failed to grasp the thistle and come up with something that is coherent and acceptable to the majority."

Gordon Liberal Democrat MP Malcolm Bruce said the commission's findings represented "a slightly garbled compromise that ultimately will not satisfy anybody" He welcomed Prof Sir John Arbuthnott's extension of the use of the proportionate single-transferable-vote system from local government to the election of members of the European Parliament. But he said it was likely the commission's plan to end party lists for regional top-up seats to allow the voters to choose individuals would probably not work well and called for single transferable voting for Holyrood as well.²⁰

The *Scotsman* also reported the continuing controversy about dual candidacy:

Last night, Jim Devine, the MP for Livingston, said that he had the support of nearly 70 MPs for a Commons motion which calls for candidates not to be allowed to stand in a seat and on the list. Mr Devine said that George Foulkes, the former MP who is now in the Lords, was considering introducing legislation to force Holyrood to adopt a measure similar to that being introduced by the UK government for the Welsh Assembly.

Mr Devine said: "There is a substantial move in the House of Commons and the

¹⁹ Ibid, p66

²⁰ Demand on top-up MSPs is rejected, *Aberdeen Press and Journal*, 20 January 2006

Lords to tackle this anomaly, which some of my colleagues describe as the assisted places scheme."

However, there were no signs that Mr Darling was prepared to act quickly in response to Labour back-benchers whose anger over list MPs had forced him to set up the commission. Mr Darling said: "There is now an opportunity for full consideration and debate on these proposals. However, I can confirm that should I decide to take forward any legislative changes these could not be made before the Holyrood election in 2007."

Alex Salmond, the SNP leader, called for the findings to be delivered by Holyrood rather than Westminster. Mr Salmond said: "The dinosaurs of Scottish politics - Scottish Labour MPs at Westminster - should take note and stop their small-minded attacks on Scotland and our parliament. Their plans have been branded "undemocratic" and they are rightly criticised for being driven by narrow party advantage. They should not be given the chance to interfere with or overturn the recommendations in the report. Instead, the Scottish Parliament should have primary responsibility for delivering these changes to Scotland's electoral system."²¹

A leader in the *Scotsman* on 21 January 2006 supported the Arbuthnott Commission's recommendation to decouple the Scottish Parliament and local government elections:

SINCE the Arbuthnott report was commissioned, some of the heat has gone out of the internal Labour debate in Scotland over the voting system. Councillors seem reconciled to STV. Sensibly, Arbuthnott recommends uncoupling the 2007 local and Holyrood elections in order not to confuse the elector with two different voting systems. That may also prove a good excuse for giving present councils another year of life, as a reward for taking their STV medicine quietly.

There is also a head of steam building up among Scottish Labour backbenchers to ban Holyrood candidates from standing simultaneously as constituency MSPs and on the regional list, forcing those from the smaller parties to jump one way or the other. There is some support for this idea among voters, who rightly see two bites at the cherry as unfair. Arbuthnott rejects such a ban on the grounds that it infringes candidates' rights...

...the Arbuthnott proposals are measured and pragmatic, and a good starting point for tidying up the electoral jumble in Scotland. Yet, this may not save them from obscurity. Mr Darling says there are no plans for any legislation before 2007, by which time Mr Brown may be in Number 10 and unlikely (on present form) to hand more power to MSPs.

Which leaves Scotland with too many voting systems and too many overlapping representatives. Democracy needs simplicity, transparency and legitimacy if it is to work properly.²²

The *Glasgow Herald* reported that the Scottish Executive would not accept the Commission's recommendation to decouple the two elections:

²¹ Voting Commission redraws battle lines, *Scotsman*, 20 January 2006

²² Clearly we need transparency, *Scotsman*, 21 January 2006

...asked to comment for the first time on the findings of the commission, the First Minister said it was more important to maximise the turnout at elections, and more people would vote for councillors if they did so on the same day as for the Scottish Parliament, in May next year.²³

The *Times* also reported Jack McConnell's opposition to the proposal:

...on May 3, 2007, voters will be faced with three different voting systems: first-past-the-post and the additional member list system for Holyrood, and STV for local authorities.

The Arbuthnott Commission, which was set up to consider Scotland's voting systems, called last week for the elections to be "decoupled" from the Holyrood vote by holding them on a different day. Sir John Arbuthnott, the commission chairman, went further and said that the council elections could even be held as much as a year later.

But at a regular briefing for journalists yesterday, Mr Mc-Connell ruled out any such option. He said that he believed very strongly that turnout was important for both sets of elections and that turnout in council elections in Scotland was traditionally low. "Having the elections on separate days would be likely to lead to lower turnouts in both elections. I do not believe that with the technology available, it would not be possible to hold the elections on the same day," he said.²⁴

C. Consideration of the report by the Scottish Affairs Committee

The Scottish Affairs Committee considered the Arbuthnott report in its third report of 2005-06.²⁵

The Committee took evidence from Professor Sir John Arbuthnott and Dr Nicola McEwen of the Commission on Boundary Differences and Voting Systems on 14 February 2006. The Committee recommended that the Scottish Grand Committee should consider the Arbuthnott report:

This Committee, composed of Members from all Parties representing Scottish constituencies, therefore makes a formal request that a Scottish Grand Committee be held to consider the matter of *Putting Citizens First: Boundaries, Voting and Representation in Scotland*, and recommends that such a meeting of a Grand Committee be held *before* the Government makes any substantive response to that report.²⁶

²³ 'Twin polls to be on same day' insists First Minister, *Glasgow Herald*, 25 January 2006

²⁴ Voters face three systems on one day, *Times*, 25 January 2006

Putting citizens First, the Report from the Commission on Boundary Differences and Voting Systems. Scottish Affairs Committee third report 2005-06. HC 924 2005-06.

<http://www.publications.parliament.uk/pa/cm200506/cmselect/cm Scotaf/924/924.pdf>

²⁶ *Ibid*, para 13

The day after the Committee took evidence there was a Westminster Hall debate on the Arbutnott report.²⁷ Brian Donohoe MP (Labour) who secured the debate called for the Scottish Grand Committee to meet and consider the report. He also called for a referendum on the four voting systems used in Scotland:

I could go on about boundaries, the number of MSPs that are required to do the job and what needs to be changed. However, although we talk a lot about this issue, the public are not really interested. I can tell hon. Members that I know for a fact that the number of people voting, not only in Central Ayrshire, but right across Scotland, is diminishing by the year as a result of all the complication. This needs to be looked at.

The public are interested in having somebody that they recognise and know as the representative for whom they voted—and in whom they will continue to have confidence—being able to do the job for them. The public are not, in many instances, voting for the party pack that is on an added list; they are voting for the individual. From my experience of the system that is operating, we are seeing that for ourselves.

What is the answer? I have thought about this long and hard and have come to the conclusion that we must give the people the choice. The report by Arbutnott is called "Putting Citizens First". Well, let us put them first and give them the opportunity to determine for themselves what voting system they want. I suggest that the Minister thinks carefully about having a referendum in Scotland, so that we overcome the situation with four different voting systems, which will confuse people.

Mr. Jim McGovern (Dundee, West) (Lab): Does my hon. Friend agree that in terms of ease of understanding, most of the electorate would prefer the first-past-the-post system?

Mr. Donohoe: That is going back to party politics. I want to leave it to the public in a referendum to determine for us, once and for all, what should happen. On that basis, all politicians of all persuasions would be able to see for themselves just what the public think of the process in which they are engaged at present.²⁸

The Parliamentary Under-Secretary of State for Scotland, David Cairns, responded to the debate. He said that the Government had no plans to hold a referendum about the voting systems in use in Scotland, nor would there be any changes made to the systems before the 2007 elections. Brian Donohoe also asked whether the Minister

²⁷ HC Deb 15 February 2006 c498WH
http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo060215/halltext/60215h04.htm#60215h04_head0

²⁸ Ibid, c499WH

rejected the Commission's conclusion that the local government elections should be separated from the Scottish elections:

David Cairns: That was the second of the two things that my right hon. Friend the Secretary of State made clear. Let me stick with the first one for a second. We say that it will not be possible to make changes in advance of a poll that is little more than a year away because the local government vote will be done by STV, which will require considerable attention, given that it will be the first time that it has been done. Electronic vote counting might be a possibility, as my hon. Friend is aware. The Electoral Administration Bill, which is working its way through Parliament at the moment, will have an impact on the way in which the run-up to that poll is carried out, and we are likely to promote secondary legislation to improve other aspects of electoral administration. Taking everything together, I do not think that there is any prospect of our legislating to change the system by 2007. In fact, we are not in a position to do so.

Secondly—this brings me to the point that my hon. Friend asked about—in response to the report's call for the decombining of the Holyrood and local government elections, which he mentioned, the Secretary of State has confirmed that we have no plans to open up the Scotland Act 1998 to adjust the timing of the Scottish parliamentary elections. Of course, the timing of the local government elections is a matter for the Scottish Executive. However, I can tell my hon. Friend that since the report was published, the First Minister has made it clear that the date of the local government elections in Scotland will not be changed, and the relevant legislation will remain in place.²⁹

D. Westminster Hall debate on the report on 20 July 2006

The Scottish Grand Committee did not debate the Arbuthnott report but a three hour debate was held in Westminster Hall on 20 July 2006. Opening the debate the chairman of the Scottish Affairs Committee, Mohammad Sarwar MP (Labour), expressed concern about issues which the Arbuthnott Commission had not resolved:

The first is the complicated and confusing system that we have in Scotland, with four different voting systems for the four different types of elections. We have STV for local government elections; proportional representation for elections to the European Parliament; a mixture of first past the post and a list system for elections to the Scottish Parliament; and first past the post for elections to the House of Commons.

...All hon. Members will share my concern about the falling number of people who bother to vote in elections. Part of that reluctance to vote must be due to the confusion caused by having different systems for different elections, and

²⁹ Ibid, c 503WH

the fact that, for elections to the Scottish Parliament, electors have two votes: for a constituency MSP and for a list MSP...

If elections to Holyrood and for local government are to be held on the same day, surely it would make perfect sense, in order to reduce the voter confusion that I mentioned, for the same voting system to be used for both types of election.³⁰

Jo Swinson MP (Liberal Democrat) disagreed with the Arbuthnott Commission that the local and Scottish Parliament elections should be de-coupled:

I disagree with some parts of the report—particularly the findings, to which the hon. Member for Dumfriesshire, Clydesdale and Tweeddale (David Mundell) referred, on decoupling at the elections. I am glad that the Scottish Executive have indicated that local and Scottish parliamentary elections will be held on the same day.

My concern with decoupling elections relates primarily to turnout. Back in 1995, turnout for local government elections was 45 per cent. When those elections were held on the same day as those for the Scottish Parliament, turnout increased to 59 per cent.; in fact, turnout for the local elections was 1 per cent. higher than that for the Scottish Parliament elections. In 2003, the figure for local elections dropped back slightly to 49 per cent., but that resulted from a general drop in turnout and it was still significantly higher than in 1995. I worry that turnout might drop if we held the elections on a different day.³¹

David Mundell MP (Conservative) drew attention to the possibility of more spoiled ballot papers if two different voting systems were used on the same day:

The point about ranking candidates on the same day is that on one ballot people are asked to place an X and on the other they are asked to write 1, 2 and 3. We have clear evidence from elections in Northern Ireland—I had the opportunity to see the count in the last Assembly elections—of large numbers of people who understood that they had more than one vote but who, despite 20-odd years of operating that system, put two Xs on the ballot paper, making it invalid. Even if we accept the argument for STV, which I do not, what can be the purpose of holding such an election on the same day if—as was again shown in the London mayoral elections—having two separate systems exposes us to the risk of a disproportionately large number of people spoiling their ballots?³²

³⁰ HC Deb 20 July 2006 c142WH

³¹ HC Deb 20 July 2006 c172WH

³² HC Deb 20 July 2006 c174WH

David Cairns, the Parliamentary Under-Secretary of State for Scotland, acknowledged that the Government had not yet responded to the Arbuthnott Commission's report:

I want to say something clearly from the outset: the report came out in January, and in the normal course of events it would have been the Government's firm intention to respond to it and to give our views definitively on its recommendations by now. However, we became aware that the Select Committee on Scottish Affairs was holding an inquiry into the report, and obviously it would not have been appropriate to bring out our response before that. As the only recommendation from that Committee was that we have a debate on the issue, it would again not have been appropriate for us to bring out our response, particularly as it requested us not to do so until this debate took place.

I announce today that that sequence means that we will not be bringing forward our definitive response to the report until early in the next Session. It has been important to have these issues aired and debated, although the vast majority of the past two and a half hours has been spent debating things that are not in either the Arbuthnott report or the Select Committee's response to it. I am sure that we will return to some of these other issues at a later date when we respond to the most recent report by the Select Committee on the Sewel convention.³³

David Cairns said that it would not be possible to implement any of Arbuthnott's recommendations which required primary legislation before the elections in May 2007 because there would simply not be time to do so. He continued:

However, one issue that does not require primary legislation, to which several hon. Members have alluded, and on which we are moving forward on other recommendations by the commission is the decision on the layout of the ballot papers for the Scottish Parliament elections next year. That was precipitated by a number of factors. First, we are introducing STV, which is a novel system that requires us, as those who write the rules by which elections are administered, to ensure that we have the greatest possible clarity for the people who will take part in it. Because of the decision to have STV, it has been confirmed that we will move to e-counting. A great deal has been said about that during the debate. Great care is required to ensure that the ballot paper can be read by the machine. Because of those twin impetuses—should that be “impeti”?—it was logical and compelling to look at the ballot papers for the Scottish Parliament elections and we can do that absum primary legislation. That consultation is under way. It closes in early August and we shall bring forward some firm proposals towards the end of that month.³⁴

³³ HC Deb 20 July 2006 c183WH

³⁴ HC Deb 20 July 2006 c185WH

The minister was asked by David Mundell what the Government's response would be to a request from the Scottish Parliament to change its electoral system to STV after the 2007 elections to the Parliament:

David Cairns: It would be for the Scottish Parliament to bring forward such a recommendation to this House and for the House to make such a decision. However, obviously we would have to bear in mind the fact that Sir John Arbuthnott does not make such a recommendation. He does not recommend, as some thought he would and to the disappointment of those who genuinely and legitimately favour the single transferable vote, that that course of action should be followed for the Scottish Parliament. It is entirely for the Scottish Parliament to make that recommendation to this House if it wishes to do so, but the method by which the Scottish Parliament is elected is a matter reserved to this House. I would not wish to pre-empt the decision that the House might wish to make.³⁵

E. The Government's response to the Arbuthnott report

The Government published its response to the Arbuthnott Commission report on 23 January 2007 in a Written Ministerial Statement.³⁶ The text of the statement is as follows:

The Secretary of State for Scotland (Mr. Douglas Alexander): This statement sets out the Government's final response to the recommendations of the Commission on Boundary Differences and Voting Systems under the chairmanship of Sir John Arbuthnott. Their report —“Putting Citizens First: Boundaries, Voting and Representation in Scotland”— was presented on 19 January 2006 to my predecessor as Secretary of State for Scotland, my right hon. Friend the Member for Edinburgh South West, and the First Minister. The Scottish Executive is today issuing separately its response to the recommendations which relate to its responsibilities.

The Commission was set up in the middle of 2004 following the decisions taken by Parliament regarding the reduction in the numbers of Scottish MPs and subsequently the retention of the original size of the Scottish Parliament. Its establishment took into account also the decision by the Scottish Parliament to introduce the Single Transferable Vote (STV) for the next Scottish local government elections in May 2007.

Its remit was to examine the consequences of having four different voting systems in local and Parliamentary elections in Scotland and different boundaries between the Westminster and Scottish Parliament constituencies.

³⁵ HC Deb 20 July 2006 c186WH

³⁶ HC Deb 23 January 2006 c59WS

The Commission was asked in particular to make recommendations on whether any action needed to be taken in respect of-

- arrangements between elected representatives;
- electoral boundaries;
- relationships with other public bodies and authorities; and the method of voting in Scottish Parliament elections.

Its wide-ranging report is a thorough piece of work and shows careful attention to the issues and raises a number of important concerns, which have been debated in this House on a number of occasions since publication. We are now in a position to respond to the recommendations made in the report. Not all of these were for the Government to consider—some being for the Scottish Executive, the Scottish Parliament or the Electoral Commission.

I note that the Commission confirmed that having different boundaries between the constituencies of this House and those of the Scottish Parliament is not a matter which requires further action and should not drive change at this time to the electoral system for the Scottish Parliament.

The Commission recommended that there should be greater alignment between the Scottish Parliament constituencies and local authority areas in Scotland. Any action which might need to be taken by the Government will depend on the outcome of work being taken forward by the Executive. Consideration of possible new structures for the regions for Scottish Parliament elections and the future review of constituency boundaries would also follow from this.

The Government are pleased that the Commission's conclusions generally support the operation of the Additional Member System (AMS) for electing members to the Scottish Parliament, which will remain the system to be used in the next elections in May 2007.

The Scotland Office consulted in June 2006 on the Commission's recommendation that the ballot papers for Scottish Parliament elections should be redesigned in order to improve voter understanding of AMS. I announced on 22 November 2006 that the two separate ballot papers used in previous Scottish Parliament elections would be replaced for the elections in May 2007 by a single paper—with the left side listing the parties standing for election as regional MSPs and the right side the candidates standing as constituency MSPs.

We do not propose to replace the present method of electing regional members with open lists, believing that this would over-complicate the voting system.

We note the Commission's recommendation strongly in favour of allowing a candidate both to stand in a constituency and be on a regional list, and

following this have no plans to introduce any change in this area for elections to the Scottish Parliament.

The coupling of the Scottish local government elections with those for the Scottish Parliament is a matter for Scottish Ministers and that Parliament.

Introducing the single transferable vote for European Parliamentary elections for Scotland would not be novel, since this is the system already used in Northern Ireland. However, we do not at this time believe that there is a strong enough case for changing the voting system in Scotland for elections to the European Parliament. There would need to be strong reasons to diverge from the system used in the rest of Great Britain. None is immediately apparent.

The recommendation on electronic counting and electronic voting is in line with the modernising process of the electoral system which the Government is pursuing. E-counting is already being planned for the Holyrood and Scottish local government elections in May 2007.

The recommendations on the conduct and functions of constituency and regional MSPs are matters for the Scottish Parliament to consider.

The recommendation that young people leaving school should have a good understanding of voting and parliamentary democracy is a matter for the Scottish Executive.

We support the intention behind the recommendations regarding providing further public information on voting arrangements before each election and on the elected representatives after them. However, these are matters for the Electoral Commission to take forward in the first instance. Its public awareness campaign for the 2007 elections will provide information on these elections and the voting systems which will be used.

The text of each of the 24 recommendations made by the Arbuthnott Commission, with the Government's responses to these, is available on the Scotland Office website.

In conclusion, I must thank the Commission on Boundary Differences and Voting Systems for its work and report.

F. The Scottish Executive's response to the Arbuthnott report

The Scottish Executive published its separate responses to four of the Arbuthnott recommendations:

The majority of the other recommendations of the Arbuthnott Report relate to reserved matters, and the Scotland Office is today responding to these

separately on behalf of the UK Government. Other recommendations in the Report fall to be considered by the Electoral Commission and the Scottish Parliament.

Recommendation 2. The boundaries for Scottish Parliamentary constituencies should be within and respect local authority areas rather than Westminster constituencies.

Recommendation 4. The functions of the Boundary Commission for Scotland and the Local Government Boundary Commission for Scotland should be combined to enable the constituencies and regions for the Scottish Parliament and local authorities to be reviewed together. Consideration should also be given to integrating the review of Westminster constituencies in Scotland into this process.

The approach advocated in the report is consistent with the aims of the Scottish Executive's public service reform agenda and there could be benefits from aligning boundaries as proposed. The Scottish Executive is currently looking at the long term options for reform across a range of public bodies in Scotland, including local authorities. Any action which might need to be taken by the UK Government, including consideration of possible new structures for the regions for Scottish Parliament elections or any future review of constituency boundaries, would only be after the question of any need for changes had been considered by the new Scottish administration.

Recommendation 12. The Scottish Parliament and local government elections should not be held on the same day.

The Executive has noted the Arbutnott Commission's conclusion and recommendation, but remains of the view that it is in the best interests of the voters and turnout that these elections should continue to be combined.

Recommendation 21. No pupil should leave school without having had an introduction to the voting systems and the work of the Parliaments, in the context of Education for Citizenship.

The Executive has endorsed the recommendation that young people leaving school should have a good understanding of voting and parliamentary democracy. The current review of the curriculum in Scotland, A Curriculum for Excellence, aims to prioritise and simplify existing curricular guidance.

The aspiration is that all young people should be given the opportunity to develop as responsible citizens with a capacity to participate fully in political, economic, social and cultural life. It is envisaged that there will be a range of

areas through which an understanding of voting and parliamentary democracy could be developed.³⁷

G. Local and Scottish Parliament elections on 3 May 2007

The Scottish Executive disagreed with the recommendation of the Arbuthnott Commission that the local and Scottish Parliament elections should be 'de-coupled' and the combined elections were held on 3 May 2007. The two separate ballot papers used in previous Scottish Parliament elections were replaced by a single paper. The left side listed the parties standing for election as regional MSPs and the right side the candidates standing as constituency MSPs. The Secretary of State for Scotland, Douglas Alexander, had announced the changes on 22 November 2006:

Voting in the Scottish Parliament elections will be simpler in May 2007, because of a new design of ballot paper. A colour-coded single page will replace the 2 separate ballot papers used in previous elections. This electoral innovation was one of several decisions on electoral reform announced by Scotland Office Ministers today.

The left-hand side of the ballot page will contain the list of parties standing for elections as regional MSPs; the right-hand side will contain the list of candidates standing as constituency MSPs. Each list will be a different colour so voters know when they mark their cross which type of MSP they are voting for.

Secretary of State for Scotland Douglas Alexander said:

"By introducing a single ballot paper for the May elections, we are making things easier for voters to mark their papers for the Parliamentary elections. They will be able to see the importance of both their votes - regional and constituency. Results will be quicker because we are making good use of the e-counting system to scan a single paper instead of two papers. I am doing this with the backing of the majority of those who responded to our consultation in August about this change.

"I am pleased that this helps to take forward Sir John Arbuthnott's recommendations for improving the voting arrangements for the Scottish Parliament."

Scotland Office Ministers have also decided to implement reforms contained in the Electoral Administration Act 2006. For example voters will sign for their ballot paper and have the right to check if their postal vote has been received. Ministers regard these as an important contribution to the anti-fraud safeguards introduced by the 2006 Act.

³⁷ <http://www.scotland.gov.uk/News/Releases/2007/01/23105546>

However, Ministers have recognised that not all the measures in the Act can be introduced effectively in Scotland in time for May 2007 and have decided to delay their introduction until after the elections. These include the collection and use of personal identifiers for postal and proxy voters.

Ministers will continue to work closely with colleagues in the Scottish Executive on arrangements for the elections.³⁸

Electors in Scotland therefore had two ballot papers on 3 May 2007, one for the Scottish Parliament which contained both the ballot for the Regional Members and for the Constituency Member and had to be marked with a x, and the ballot paper for the local government elections, which was being conducted under the STV system for the first time, and on which candidates had to be ranked in numerical order. When the results were announced it was apparent that there had been a substantial number of spoilt ballot papers.

On 4 May 2007 the BBC reported that the Electoral Commission had begun an investigation:

The Electoral Commission said it had begun "with immediate effect" an investigation into the Holyrood election voting chaos. The polls have been hit by major problems with seven counts suspended and up to 100,000 ballot papers spoilt. Technical failures, confusion about how to fill in ballot papers and problems with postal votes have all been blamed. SNP leader Alex Salmond said if he won power he would hold an independent judicial inquiry into the problems. He insisted it "would go further than the current" investigation by the Electoral Commission. Mr Salmond added: "The inquiry will have the fullest powers and the most searching remit. It will be charged with laying bare the outrage of why over 100,000 Scots were denied their democratic voice."

[...]

Separately, the Scotland Office said the failures must be investigated by DRS, the company which operates the electronic counting system. It said that the Scotland Office shared the public's concern about the high number of rejected ballot papers. A statement said: "The independent Electoral Commission will undertake a statutory review into the conduct of this election. "It is important that they look as a matter of urgency into delays in postal ballots, the high number of spoiled ballot papers, and the performance of the electronic counting machines." A commission spokeswoman said she could not comment on whether the election would have to be re-run. She added that it was not up to the organisation to re-play elections, but anyone, including members of the public and candidates, can petition the Royal Courts of Justice to dispute a result.

³⁸ Scotland Office press notice 22 November 2006 <http://www.scotlandoffice.gov.uk/our- /release.php?id=3561>

The returning officer at the Glasgow Shettleston count said there had been 2,035 spoilt papers, while in Airdrie and Shotts, Labour's majority of 1,446 was less than the 1,536 rejected ballots.

There were 1,850 spoilt papers in Glasgow Baillieston and 1,736 in the Anniesland constituency.

The counts in Aberdeen, Argyll and Bute, Edinburgh, Eastwood, Perth and Tayside North and Strathkelvin and Bearsden were suspended until later on Friday due to technical problems. The problem at the Strathkelvin and Bearsden count occurred when the computer system could not validate the votes that had been counted so far. BBC Scotland political editor Brian Taylor described the situation as a disgrace.³⁹

The *Financial Times* reported that up to 100,000 ballot papers in Scotland were counted as spoiled 'after voters appear to have been confused by the combination of a new ballot form for Holyrood and the introduction of single transferable voting for the 32 local council elections.'⁴⁰

Scotland on Sunday reported that more than 81,000 votes were spoiled, 'equivalent to the turnout of three entire constituencies'.⁴¹ The *Scotsman* reported that:

In about one in six constituencies, the number of spoiled votes was bigger than the successful candidate's winning margin. They included Airdrie and Shotts, Livingston, Linlithgow, Stirling, Ochil, Govan, Central Fife, Dunfermline West and Cunninghame North...

John Curtice, professor of politics at Strathclyde University, said the level of spoiled papers was 'unprecedented' in UK election history. He went on: 'huge numbers of people have cast two votes in one column and none in the other, rendering both votes void. The ballot paper says 'you have two votes' and it appears this is where the confusion may have been caused.'⁴²

1. Statement by the Secretary of State for Scotland

The Secretary of State for Scotland, Douglas Alexander, made a statement on 8 May 2007 on the conduct of the elections.⁴³ The Secretary of State confirmed that the statutory review of the elections by the Electoral Commission was already under way

³⁹ BBC news report 4 May 2007 <http://news.bbc.co.uk/1/hi/scotland/6623287.stm>

⁴⁰ Spoiled ballot papers fiasco set to trigger two challenges, *Financial Times*, 7 May 2007

⁴¹ Election chaos unacceptable, say observers, *Scotland on Sunday*, 6 May 2007

⁴² The biggest poll debacle in the history of British democracy sees up to one in ten votes thrown out, *Scotsman*, 5 May 2007

⁴³ HC Deb 8 May 2007 c22

<http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070508/debtext/70508-0004.htm#07050817000309>

and that the review would also include the local government elections at the request of the Scottish Executive. The Commission's report will be published in the summer.

The Arbutnott Commission had recommended that 'the Electoral Commission should clarify the purpose of the regional vote and in particular revise the design of the ballot papers used in Scottish Parliament elections with the aim of conveying better the way the voting system works.'⁴⁴ The Secretary of State gave details in his statement of the public consultation which had taken place to test whether a move to a single ballot paper would have general support:

The Scotland Office launched that consultation on 9 June 2006. In addition, my hon. Friend the Under-Secretary of State met with a range of interested parties, including representatives from disability rights groups, to explore these issues. There was a significant level of support for a single ballot paper. Of 29 respondents, the Scottish Senior Citizens Unity party, the Liberal party of Scotland, ENABLE Scotland and Capability Scotland were not in favour of a combined ballot paper. I have requested that all responses to this consultation are placed in the Library of the House. The major political parties who expressed a view were largely in favour.⁴⁵

The Electoral Commission was asked to research the impact of any change to the format of the ballot paper on voters:

On 4 August 2006, Sir Neil McIntosh [Scottish Electoral Commissioner] wrote to the Under-Secretary of State enclosing the findings of that research, which involved focus groups in Glasgow, Edinburgh, Inverness and Dundee. A copy of the research has been placed in the Library of the House, together with the covering letter from the Electoral Commission.

In that covering letter, Sir Neil McIntosh wrote:

"As you can see, the research draws a number of clear conclusions for the design of the Scottish Parliamentary Ballot Paper. These conclusions point to the interests of the voter best being served by: A design of ballot paper that incorporates both the regional and constituency ballot papers alongside each other on a single sheet of paper".

The findings of the focus groups supported the move to a single ballot paper, with a significant majority of respondents agreeing, and with the overall preference in favour of a single combined ballot paper rather than two separate papers. Only after that extensive consultation, involving the widest possible range of stakeholders, the support of the main political parties who expressed a preference, research indicating the best interests of the voter

⁴⁴ *Putting Citizens First: Boundaries, Voting and Representation in Scotland*, p53

⁴⁵ HC Deb 8 May 2007 c23

being served by a single ballot paper and clear official advice, was a decision taken to proceed with a single ballot paper for the Scottish parliamentary elections.⁴⁶

David Mundell MP (Conservative), responding to the Secretary of State's statement, accepted that the Scottish Conservatives had acceded to a single Scottish Parliament ballot paper 'but what they did not accept was the use of that ballot paper on the same day as council elections under a different system of voting.'⁴⁷ Jo Swinson MP (Liberal Democrat) welcomed the Electoral Commission's forthcoming review of the elections which she said had 'featured new voting and counting systems, and a new ballot paper design for the old system. The blame for the chaos has been attributed to each of the changes, but...we should wait for the review to understand properly where the problems lay.'⁴⁸ Angus Robertson (SNP) said that the 'chaos in the counting, the postal votes and the spoiled ballots was a debacle' although there was no doubt about the result of the election.⁴⁹ Robertson also called for a 'full, independent judicial inquiry' into the conduct of the elections. Jim Devine (Labour) expressed concern about the Electoral Commission's role in reviewing the elections and suggested that another body should carry out the investigation.⁵⁰

2. Electoral Commission review of the Scottish elections

On 14 May 2007 the Electoral Commission announced that Ron Gould, an electoral administration expert, had agreed to head its statutory review of the Scottish elections. Ron Gould is a former Assistant Chief Electoral Officer of Canada and is an international authority on the organisation and management of elections. Between 1981 and 2001 he led and participated in more than 100 election observation missions in over 70 countries, and advised the United Nations, the Commonwealth and governments around the world.

The Commission has asked Mr Gould to review all aspects of the elections but with a particular focus on:

- The high number of rejected ballots
- The electronic counting process
- The arrangements for postal voting
- The decision to hold the parliamentary and local government polls on the same day
- The decision to combine the two parliamentary votes on one ballot sheet

⁴⁶ Ibid, c24

⁴⁷ Ibid, c26

⁴⁸ Ibid, c27

⁴⁹ Ibid, c29

⁵⁰ Ibid, c33

- The process by which key decisions were made
- The role of the Electoral Commission itself in the preparations for the elections⁵¹

H. Election petitions

The Electoral Commission gives details of how to challenge an election to the Scottish Parliament in its guidance for candidates at the Scottish Parliament elections:

A Scottish Parliamentary election petition can be presented by:

- any voter at the election, or anyone who had the right to vote
- any person claiming to have had a right to be elected or returned at the election
- anyone who alleges they were a candidate at the election

7.10 The allowable grounds for a petition are:

- undue election
- undue return

7.11 The person whose election is questioned by the petition, and any Returning Officer of whose conduct the petition complains, may be made a respondent to the petition. If the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer is deemed to be a respondent.

7.12 Normally, the petition must be presented within 21 days of the declaration of the result of the election concerned. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward which have taken place since the election, further time may be allowed. If the petition complains of illegal practice in relation to election expenses, it may be presented at any time within 14 days of the Returning Officer receiving both the return and the candidate's and agent's declarations.

Form of petition

7.13 The petition should follow the form prescribed in Chapter 69 of the Rules of the Court of Session 1994 and must include the following information:

- name, designation and address of each petitioner and the capacity in which they present the petition (see paragraph 7.9);

⁵¹ Electoral Commission press notice, 14 May 2007. Available at <http://www.electoralcommission.org.uk/media-centre/newsreleasecorporate.cfm/news/630>

- name, designation and address of each respondent and the capacity in which they are complained of in the petition (i.e. as candidate, Returning Officer or Regional Returning Officer);
- title under which the petitioner or petitioners are acting;
- date and result of the election in question;
- date from which the time for lodging the petition is calculated, if not within 21 days;
- facts relied upon in support of the petition;
- relief claimed.

7.14 Each petitioner must sign the petition personally, and six copies must be lodged at the Petitions Department, Court of Session, 1 Parliament Square, Edinburgh, EH2 1DJ. If the Petitions Department is closed, the petition can be left in the letterbox provided, but petitioners must swear an affidavit the next working day confirming the date and time when the petition was deposited.

Costs

7.15 At the time of presenting a Scottish Parliamentary election petition, the petitioner shall apply for the amount of security for expenses to be fixed. The petitioner may be liable for costs incurred by any witness summoned on their behalf or by any respondent.

7.16 The amount of security for costs will be fixed by the Prescribed Officer (the Principal Clerk of Session) but will not exceed £5,000. The surety will be made in a manner prescribed by the court and may consist of up to four sureties, or a deposit of money, or a combination.⁵²

Two challenges, one in the Glasgow region and one in Cunninghame North, are being considered. Allan Wilson, a former Labour minister, lost Cunninghame North to the SNP by 48 votes. There were more than 1,000 rejected ballot papers.

⁵² http://www.electoralcommission.org.uk/files/dms/Candidate-guidance-SP2007_24827-18410__S__.pdf and http://www.electoralcommission.org.uk/files/dms/Candidate-guidance-SP2007-p89-erratum_25485-18931__S__.pdf

