

# The Rules and General Principles of the Review

## Changes to the Rules

1. Section 86 of the Scotland Act 1998 made a number of changes to the Rules, the effect of which is as follows:

1.1 Rule 1(2) was removed: there is now no guaranteed minimum number of Scottish seats at Westminster.

1.2 Rule 3A was inserted: “A constituency which includes the Orkney Islands or the Shetland Islands shall not include the whole or any part of a local government area other than the Orkney Islands or the Shetland Islands”.

1.3 Rule 5 was altered: for the first review following the Scotland Act 1998, the electoral quota for England must be used to determine the appropriate number of Scottish seats at Westminster.

1.4 Rule 7 was modified: rule 3A, regarding the Orkney Islands and the Shetland Islands, cannot be disregarded.

## The Electoral Quota and the Number of Constituencies

2. As amended, Rule 1 no longer provides for a minimum of 71 Scottish seats at Westminster. Further, under Rule 5, as amended, Rule 8 (which sets out how the electoral quota should be derived) does not apply in Scotland for this review. Rule 5 states that, for the first report of the Commission submitted under section 3(1) of the 1986 Act, ‘electoral quota’ means the number which, on the enumeration date in relation to that report, is the electoral quota for England (69,934 at June 2001, the enumeration date for our review).

3. The electorate in Scotland at the enumeration date for our review was 3,995,489. A strict division of the electorate by the electoral quota for England would provide for 57 constituencies, rather than the 72 which are presently allocated. At the start of our review, the average number of electors in existing Scottish constituencies was 55,454. On average, therefore, the electorate of constituencies in Scotland would need to increase by approximately 26 per cent to meet the requirement of using the electoral quota for England to determine the number and distribution of Scottish seats.

## **Local Authority Boundaries and Size of Electorate**

4. In its application to Scotland, Rule 4 provides that, so far as is reasonably practicable having regard to the foregoing Rules (which also require every constituency to return a single member), regard shall be had to the boundaries of local authority areas, i.e. the boundaries of the 32 unitary authorities established by the Local Government etc (Scotland) Act 1994.

5. Rule 4(1)(b) provides that “in Scotland regard shall be had to the boundaries of local authority areas”. In Scotland, however, it is recognised in law that “having regard to” means “having in view”. Therefore, while Rule 4(1)(b) imposes a positive requirement on the Commission to keep in view Council boundaries, it does not prohibit us from crossing the boundary of a local authority area. The Commission has a discretion either to take, or to refrain from taking, that course.

6. We recognised early in the review that, because of the application of the increased electoral quota and the increase in the number of local authorities in Scotland to 32 unitary Councils, it would be necessary to recommend constituencies which crossed local authority boundaries in order to ensure reasonable compliance with the requirements of Rule 5 that “the electorate of any constituency shall be as near the electoral quota as is practicable having regard to rules 1 to 4”. Rule 5 also states that “a Boundary Commission may depart from the strict application of Rule 4 if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate of any constituency and that of neighbouring constituencies”.

7. We therefore decided to combine some Council areas so that we could design constituencies which, as far as possible, complied with Rule 5, whilst minimising the number of Council boundaries crossed. We noted, however, the introduction of Rule 3A, which states that “A constituency which includes the Orkney Islands or the Shetland Islands shall not include the whole or any part of a local government area other than the Orkney Islands or the Shetland Islands” and the modification to Rule 7 which provides that Rule 3A cannot be disregarded.

8. We also decided to limit the number of Council areas that we combined to 2, unless it was impracticable to do so.

## **Geographical Considerations**

9. Rule 6 provides that the Commission may depart from strict application of rules 4 and 5 if special geographical considerations, including in particular the size, shape and accessibility of a constituency, appear to the Commission to render departure desirable. We considered that Rule 6 has a special relevance in Scotland. Inevitably, the exercise of this discretion resulted in some constituencies having electorates significantly smaller than the average.

## **General and Supplementary**

10. Paragraph 7 of Schedule 2 to the 1986 Act relieves the Commission of the obligation to give full effect in all circumstances to the Rules but provides that the Commission shall

take account, so far as they reasonably can, of the inconveniences attendant on alteration of constituencies, other than alterations made for the purpose of Rule 4 (which requires regard to be had to the boundaries of local authority areas), and of any local ties which would be broken by such alterations.

### **Implications of the Scotland Act 1998 and Local Government etc (Scotland) Act 1994**

11. This review of constituencies has been conducted following changes to the 1986 Act Rules arising from the terms of the Scotland Act 1998 and the reorganisation of the structure of local authorities in Scotland which came into effect in 1996. Consequently it was apparent early in the review that the constituency map of Scotland would change significantly. At the end of the last review, only 3 constituencies straddled a boundary between Region or Islands Areas. However, the increase in the number of local authorities from 12 to 32 resulted in the number of boundaries shared by local authorities increasing from 18 to 68. Further, excluding the islands authorities, the electorates of local authorities at the time of the last review ranged between approximately 83,900 and 1,745,850, whilst electorates for the existing local authority structure range between approximately 36,600 and 483,100. By applying the electoral quota for England to determine the number of constituencies appropriate for each Council area, consequential changes to constituency design have resulted in only one of the existing Scottish mainland constituencies remaining unaltered.

### **Population and Electorate Changes**

12. The Rules require the use of the electorate on the enumeration date for the review, i.e. June 2001, and do not provide for forecast changes in the electorate to be taken into account when determining the number of constituencies.

13. Changes in the number of electors on the electoral register that occurred during the course of our review caused a number of organisations and individuals some concerns. However, the Rules require that we use the electorate on the enumeration date for the review and, therefore, we could not take into consideration changes in the electorate that occurred during the course of the review. The changes in the number of parliamentary electors in each Council area between 2001 and 2004 is detailed at Appendix D.

### **Theoretical Entitlement and Allocation of Seats**

14. At an early stage in our deliberations we calculated the theoretical entitlement of Scottish seats at Westminster. We next established the theoretical entitlement of seats for each local authority by dividing the number of electors in each Council area by the electoral quota. The results of these calculations are shown in Table A below, which also shows the average deviation from the electoral quota if constituencies were to be bounded by the Council area. These results have no status in law, but they serve to illustrate the very significant deviations from the electoral quota that would occur in any constituency designs that did not combine some local authority areas. In our view such large deviations from the electoral quota were not generally acceptable.

**Table A**

Council Area	Electorate (June 2001)	Theoretical Entitlement		Percentage Deviation from Electoral Quota
		Calculated	Rounded	
Aberdeen City	163,156	2.33	2	15.0
Aberdeenshire	173,613	2.48	2	24.0
Angus	85,805	1.23	1	23.0
Argyll and Bute	69,587	1.00	1	48.0
City of Edinburgh	364,542	5.21	5	16.5
Clackmannanshire	36,595	0.52	1	20.0
Dumfries and Galloway	116,652	1.67	2	16.5
Dundee City	111,596	1.60	2	20.0
East Ayrshire	93,201	1.33	1	33.0
East Dunbartonshire	84,624	1.21	1	21.0
East Lothian	71,288	1.02	1	0.0
East Renfrewshire	69,249	0.99	1	0.0
Falkirk	112,763	1.61	2	19.5
Fife	278,848	3.99	4	0.0
Glasgow City	483,077	6.91	7	1.2
Highland	163,867	2.34	2	17.0
Inverclyde	65,485	0.94	1	6.0
Midlothian	62,787	0.90	1	10.0
Moray	63,959	0.91	1	9.0
Na h-Eileanan an Iar	21,884	0.31	(1)	69.0
North Ayrshire	105,942	1.51	2	24.5
North Lanarkshire	248,357	3.55	4	11.3
Orkney Islands	15,394	0.22	(1)	78.0
Perth and Kinross	105,861	1.51	2	24.5
Renfrewshire	136,680	1.95	2	2.5
Scottish Borders	86,164	1.23	1	23.0
Shetland Islands	16,787	0.24	(1)	76.0
South Ayrshire	90,281	1.29	1	29.0
South Lanarkshire	238,867	3.42	3	14.0
Stirling	66,393	0.95	1	5.0
West Dunbartonshire	71,694	1.03	1	0.0
West Lothian	120,491	1.72	2	14.0

15. The initial analysis suggested that, where the number of electors within a local authority was broadly in line with the electoral quota, the boundary of the local authority and parliamentary constituency should, wherever practicable, be coterminous. These local authority areas were Argyll and Bute, East Lothian, East Renfrewshire, Inverclyde, Midlothian, Moray, Stirling and West Dunbartonshire.

16. In the case of 4 local authority areas, the City of Edinburgh, Fife, Glasgow City and Renfrewshire, we concluded that the size of the electorate provided for a theoretical entitlement of 2 or more constituencies that varied only marginally from the electoral quota. We concluded that, for these areas, proposed constituencies should not breach the local authority boundaries.

17. In the case of Highland Council area, the electorate suggested a theoretical entitlement of 2 seats. However, we decided that, because of the exceptional geography of the local authority area, the status quo, whereby 3 seats were allocated to the Council area, should be maintained. We also felt it was necessary to examine the possibility of combining the Council area with Na h-Eileanan an Iar Council area in order to design constituencies which conformed more closely with Rule 5. In the event, as explained in Chapter 3, we decided that there were strong reasons for rejecting this combination of Council areas.

18. For 16 local authority areas, Aberdeenshire, Aberdeen City, Angus, Clackmannanshire, Dumfries and Galloway, Dundee City, East Ayrshire, East Dunbartonshire, Falkirk, North Ayrshire, North Lanarkshire, Perth and Kinross, Scottish Borders, South Ayrshire, South Lanarkshire and West Lothian, the theoretical entitlement to constituencies is such that a satisfactory constituency structure within the terms of the Rules is not achievable without breaching local authority boundaries. In these cases we decided that it would be necessary to combine 2 or more local authorities to enable the formulation of acceptable provisional proposals.

19. In the remaining 3 local authorities, Na h-Eileanan an Iar, Orkney Islands and Shetland Islands, the electorates of each area fell substantially short of the electoral quota. In the case of Orkney Islands and Shetland Islands, changes to the Rules prevent us from combining these areas with any other local authority for the purpose of representation at Westminster. However, the Rules do not preclude us from either combining both local authorities to form a single constituency or from recommending 2 constituencies. For Na h-Eileanan an Iar, after careful consideration of possible combinations with Highland Council area, we decided that the local authority area should form a single constituency.

20. The implication of the treatment of Orkney Islands and Shetland Islands, of Na h-Eileanan an Iar and of Highland Council areas set out in paragraphs 17 and 19 above has led us to the designation of 59 constituencies instead of the 57 arrived at by strict application of the electoral quota.

21. We noted that, in designing options for revised constituencies across Scotland, it might be necessary in some instances to review this position in the light of circumstances arising in adjoining local authority areas.

## **Naming and Designation of Constituencies**

22. Under section 3(4) of the 1986 Act, the Commission's recommendations for each constituency must include the name by which it should be known and whether it should be a county constituency or a burgh constituency. At this review, the very significant changes to constituency geography suggested that in many instances the existing names and designations would no longer be appropriate. We therefore considered each proposed constituency name in the light of the revised constituency geography.

23. With the exception of constituencies contained wholly within city authorities, all but a very few of the recommended constituencies had a significant non-urban electorate so we decided that 41 of the 59 constituencies proposed should be designated county constituencies.

## **Final Recommendations**

24. Following the local inquiries which were held into our provisional proposals, we carefully considered the reports of the Assistant Commissioners. We accepted all but 2 of the firm recommendations arising from the local inquiries which encompassed 20 local authority areas. As a result of our consideration of the Inquiry Reports, we published revised recommendations for all of the inquiry areas. In a number of areas where inquiries were held, when we published revised recommendations for some constituencies, we did not confirm our provisional proposals for adjoining constituencies. This allowed us to avoid unnecessarily restricting the options available to us should there have been a need to further revise recommendations. Where it was clear that no further consequential changes to our proposals were necessary, we announced our final recommendations for these areas. On 11 December 2003 we completed the announcement of our recommendations for all constituencies. We were satisfied that, having regard to the significant changes to constituency geography as a consequence of the reduction in the number of constituencies from 72 to 59, our conclusions were fair and consistent.

## **The Scottish Parliament (Constituencies) Act 2004**

25. Once we had determined our final recommendations for Westminster constituencies we turned our attention to the regional boundaries required for elections to the Scottish Parliament. We considered options for 8 restructured regions and agreed draft proposals which appeared to us to offer suitable groupings of the revised constituencies within the terms of the Rules. We were aware, however, that the Scottish Parliament (Constituencies) Bill, which, if enacted, would break the link between the Westminster constituencies and constituencies at the Scottish Parliament, was introduced to the House of Commons on 27 November 2003. After it was clear from the second reading of the Bill on 9 February 2004 that it was Parliament's intention to proceed with the amending legislation, we decided that we would withhold publication of our provisional recommendations. Mindful of the possibility that the Bill might not progress to enactment, we had arrangements in place to proceed with the publication of proposals for revised regions had this proved necessary.

26. On 30 July 2004, we were informed by officials of the Scotland Office that the Scottish Parliament (Constituencies) Act 2004 had received Royal Assent on 22 July 2004. The Act removed our duty to revise the regional boundaries for the Scottish Parliament.