

SCOTTISH ELECTIONS (REPRESENTATION AND REFORM) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY FINANCIAL MEMORANDUM

INTRODUCTION

1. As required under Rule 9.7.8B of the Parliament’s Standing Orders, this supplementary Financial Memorandum is published to accompany the Scottish Elections (Representation and Reform) Bill, introduced in the Scottish Parliament on 23 January 2024.
2. The Memorandum has been prepared by the Scottish Government. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum published to accompany the Bill as introduced.
3. The purpose of this supplementary Financial Memorandum is to set out the expected costs associated with the new and amended provisions included in the Bill following the amendments made at Stage 2. This document addresses those amendments with anticipated or potential cost implications. Amendments agreed at Stage 2 which are not covered in this supplementary Financial Memorandum are considered not to significantly or materially affect the assumptions in the original Financial Memorandum.

SUMMARY OF TOTAL COSTS OF THE BILL

Disqualification of sex offenders from elected office

4. Amendments at Stage 2 created new grounds for disqualification for membership of the Scottish Parliament and local authorities, based on sexual offences notification requirements and sexual harm or risk orders.
5. A person who is subject to “any relevant notification requirements” or “a relevant sexual harm or risk order” is disqualified from membership of the Scottish Parliament or a local authority. This definition covers sex offender notification requirements, which are commonly known as “registration” and often referred to as being on the “sex offenders’ register”. Also included within the change are relevant sexual harm or risk orders, which are imposed following a conviction or equivalent of a sexual offence or a relevant offence with a sexual element, or in other circumstances where the court has found that there is a risk of sexual offending.
6. The change features transitional measures to ensure that no elected representative subject to relevant notification requirements or a relevant sexual harm or risk order will be disqualified for that person’s remaining term of office. However, the disqualification provisions will have

effect, in respect of those requirements or of that order, from the earlier of the next general election for membership of the Parliament or ordinary local election as is relevant or any by-election involving the particular MSP or councillor. And the amendment does not apply to make any special provision for any new requirement or order imposed after commencement, so that a sitting representative would be disqualified immediately should they become subject to any new requirements or order.

7. Paragraphs 13 to 17 of the Bill's Financial Memorandum discussed the potential cost implications of the Bill's provisions for disqualification from elected office of anyone found guilty of a crime involving intimidating candidates, campaigners or elected representatives. The same considerations are involved in relation to the amendments in relation to sex offender disqualification. In particular, the disqualification provisions could result in by-elections (see paragraphs 48 and 49 of the Financial Memorandum for costs), if a serving MSP or councillor becomes subject to a relevant notification requirement or a relevant sexual harm or risk order.¹

8. The changes made by the amendments are very similar to disqualification categories adopted in Wales for both councillors and parliamentarians² and in England in respect of councillors³. No by-elections arising as direct result of either regime have been identified.

9. There were 1,226 councillor vacancies at the 2022 local government elections and the Scottish Parliament consists of 129 MSPs.

10. The Scottish Government considers that the disqualification of sex offender provisions raise a very remote prospect of a by-election arising as a result of a serving elected representative becoming subject to a relevant notification requirement or a relevant sexual harm or risk order. This is not considered likely to produce significant by-election costs.

11. It is anticipated that the disqualification measures discussed will only arise in very rare circumstances, and there is not expected to be a significant increase in by-elections.

12. Returning Officers do not vet candidates for eligibility and so costs on enforcing any change are not anticipated.

¹ The Memorandum noted that it was difficult to accurately estimate the cost of a Scottish Parliament by-election in a 'typical' constituency, but in consultation with the EMB the Scottish Government considers it is likely to be £150,000-200,000. The EMB estimate the cost of a local government by-election at between £50,000 and £80,000.

² The Welsh Senedd legislated in the [Senedd and Elections \(Wales\) Act 2020](#) to restate disqualification criteria from the Senedd. The 2020 Act included in the list of disqualification criteria inserted in new Schedule 1A of the Government of Wales Act 2006 a paragraph 7 covering sex offenders. This disqualifies "a person subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003". Section 20 of the [Local Government and Elections \(Wales\) Act 2021](#) amended the law to prevent persons subject to the notification requirements or orders under Part 2 of the Sexual Offences Act 2003 from being councillors in Wales.

³ The [Local Government \(Disqualification\) Act 2022](#) made provision in relation to councillors and mayors in England.

Additional by-elections – Scottish Administration	Cost	Timing
Scottish Parliament by-elections	approximately £150K-£200K	Considered highly unlikely – a one off expense as and when a relevant vacancy arises
Additional by-elections – local authorities	Cost	Timing
Local Government by-elections	approximately £50K-£80K	Considered highly unlikely – a one off expense as and when a relevant vacancy arises

Nomination of candidate: home address form

13. New section 27A of the Bill will allow candidates in council elections to specify their ward of residence in nominations and on ballot papers. At present candidates can specify their home address or the local authority area in which they reside. This change will therefore involve an alteration to nomination forms and a minor change to guidance for candidates. This change has been discussed with the Electoral Commission and the EMB and both are content that there will not be any additional costs arising. This will be met from the Commission’s existing financial settlement from the Scottish Parliamentary Corporate Body for its core costs in relation to delivering its functions in respect of devolved Scottish elections. As discussed in the Financial Memorandum on introduction (see paragraph 63) the modification of Electoral Commission guidance has been viewed as a business-as-usual cost for the comparable electoral reforms in 2020. The Government remains in discussion with the Electoral Commission to ensure all implications are identified.

Election agent and sub-agent home address

14. New sections 27B and 27C allow election agents to provide a correspondence address as the public notice of address, instead of a personal address for correspondence. This change will therefore involve a minor change to guidance for agents. This change has been discussed with the Electoral Commission and the EMB and both are content that there will not be any additional costs arising. This will be met from the Commission’s existing financial settlement from the Scottish Parliamentary Corporate Body for its core costs in relation to delivering its functions in respect of devolved Scottish elections. As discussed in the Financial Memorandum on introduction (see paragraph 63) the modification of Electoral Commission guidance has been viewed as a business-as-usual cost for the comparable electoral reforms in 2020. The Government remains in discussion with the Electoral Commission to ensure all implications are identified.

Electoral Commission: public awareness

15. Changes to Part 8 of the Bill in relation to the Electoral Commission require the Commission to promote public awareness of how to mark ballot papers in Scottish Parliament elections and Scottish local government elections. This change will not bear a cost as the Commission is subject to an existing duty to promote public awareness of the different voting systems used in the UK.

16. The changes mean that each Electoral Commission annual report must include information on the steps the Commission has taken to reduce the number of spoiled ballot papers at Scottish Parliament and Scottish local elections. A plan is also required ahead of every nationwide local government election and consideration in the Commission's five year plan. These steps will not create additional costs. This will be met from the Commission's existing financial settlement from the Scottish Parliamentary Corporate Body for its core costs in relation to delivering its functions in respect of devolved Scottish elections.

Election Pilots and Democratic Engagement

17. Amendments to the Bill at Stage 2 provided a new power for the Scottish Ministers to make regulations to make temporary provision about the registration of electors. This was in the context of electoral innovation pilots, which were possible prior to the Bill and were expanded by the Bill at introduction to allow the Scottish Government, Electoral Registration Officers and the Electoral Management Board for Scotland (EMB) to initiate pilots. This was described in the Bill's Financial Memorandum on introduction (see paragraphs 35 to 37).

18. The change at Stage 2 was made to ensure that it would be possible for a trial of automatic registration of voters to occur via an electoral innovation pilot. This envisages adding people who are eligible to vote to the electoral register using data derived from other sources. The change in the Bill does not require a specific pilot to occur and the new piloting provisions are based on the framework of piloting provisions already in law and expanded by the Bill on introduction.

19. The financial impact of any specific automatic registration pilot would be set out along with the relevant Order initiating the pilot. No automatic registration pilots are currently planned or in development in Scotland. Any pilot that did occur would be likely to be a distinct event subject to the availability of funds in any financial year and not a recurring annual commitment. However the Welsh Government is in the process of designing an automatic registration pilot and this work has been used to provide the illustrative cost for a pilot noted below.

20. The Welsh Government set out its assessment of the work required for an automatic registration pilot in the Regulatory Impact Assessment (RIA) for the Elections and Elected Bodies (Wales) Bill.⁴ It concluded (on page 77):

⁴ Welsh Government, Elections and Elected Bodies (Wales) Bill, Explanatory Memorandum incorporating the Regulatory Impact Assessment and Explanatory Notes, June 2024 ([pri-ld16550-em-e.pdf \(senedd.wales\)](#))

“As set out in the RIA, there are some areas where it is not possible to estimate costs at this stage. Given the uncertainty around what electoral piloting will be undertaken in future years, it is not possible to present a best estimate of likely costs and/or cost savings. The financial impacts are therefore unknown at this stage. For piloting automatic registration, the costs to Welsh Government will centre on the changes required to the Electoral Management Systems (EMSs). Detailed discussions will need to take place between EMS providers, local authorities and Welsh Government to ascertain a reasonable estimate for these costs. Illustrative figures have been provided later in this document, but the actual costs are unknown at this stage and cannot be estimated due to the specialist nature of this work and commercial sensitivity. As stated throughout the RIA, where there is the intention to bring forward secondary legislation, detailed costs will be provided as part of the RIA.”

21. The section on costs then elaborated:

“9.45 The costs to Welsh Government will centre on the changes required to the Electoral Management Systems (EMS). Detailed discussions will need to take place between EMS providers, local authorities and Welsh Government to ascertain a reasonable estimate for these costs. However, in 2020-21 around £1.6million was paid to EMS providers to support the required changes to systems following the extension of the franchise. This figure is provided for illustrative purposes only, the actual costs are unknown at this stage and cannot be estimated due to the specialist nature of this work and commercial sensitivity.

9.46 Costs will continue to be calculated during the piloting period as the final model of automatic registration is developed and before a decision is taken as to any final model for automatic registration ahead of any roll out across Wales. These costs will be one-off costs as the Welsh Government will meet the initial costs of changes to EMS systems resulting from this policy.”; and

“9.50 As set out in the table below, costs in 2026-27 and 2027-28 are estimated to be £495,900. For subsequent years, we have estimated these costs at around £330,600 per annum. This would equate to around £15,000 per authority based on a spine point 21 salary of the national Local Government pay agreement (2022-23) where a full-time officer worked 2 days a week specifically on the data mining work. This additional cost would be a long-term cost for the local authority as it is likely the additional data mining functions would be required ahead of the production of the electoral register on an annual basis.

Table 9.5 – Local authority costs for data mining

Year	Days p/w	Annual cost per local authority	Total annual cost (rounded)
2026-27 and 2027-28	3	£22,542	£495,900
Following years	2	£15,028	£330,600

9.51 Additionally, there will be an added cost to local authorities in making contact with electors to give provide them with a notice of registration. We propose to allow flexibility to local authorities to use the most appropriate methods of communication (in line with the current canvass regulations) however, we have estimated costs for a letter to be sent to each elector directly.

9.52 These figures have been calculated based on the average cost of sending an Invitation to Register (ITR) to electors in July 2022 along with the numbers of people registered within each local authority.

9.53 We currently estimate that to send a paper letter to each elector in Wales will cost around £1.5million each year. The cost per authority will vary between £30,000 and £150,000 depending on the size of the authority and electorate.

9.54 There will be capacity for savings to be made if electors are contacted via email or other electronic communication methods.”

22. The Welsh Government’s assessment of impact was subject to scrutiny during the passage of the Elections and Elected Bodies (Wales) Bill, with an assessment by the Senedd’s Finance Committee⁵ concluding:

“45. The Committee also notes that the costs relating to changes to the Electoral Management Systems are largely unknown given the specialist nature and commercial sensitivity surrounding the work. However, given that piloting automatic registration, and the subsequent changes to EMSs, is central to the aims of the Bill, the Committee is keen to receive more information on the costs associated with individual pilots as the work progresses.”

23. Scottish Government officials remain in regular contact with Welsh Government officials working on automatic registration pilots. Despite the difference in population between the two nations, an electoral registration pilot could be held over the same limited area such as a council or group of councils. We therefore consider the developed plans in Wales on automatic registration to be highly relevant in estimating an impact of a similar pilot in Scotland.

⁵ Welsh Parliament Finance Committee, Financial implications of the Elections and Elected Bodies (Wales) Bill, January 2024 ([cr-ld16287-e.pdf \(senedd.wales\)](https://www.senedd.wales/cr-ld16287-e.pdf))

24. It is also noted that the Electoral Commission would incur costs in evaluating any pilot. The Bill’s Financial Memorandum at introduction suggested that formal Electoral Commission assessment of a pilot could cost around £100,000, although the Commission commented on this estimate (in the context of other types of pilot) in its submission to the Finance Committee at Stage 1 of the Bill⁶:

“We do not believe it is possible to estimate a specific amount for evaluating a pilot as it would depend on the nature and scale of any pilot we are required to evaluate.”

Automatic Registration Pilots – Scottish Administration	Cost	Timing
Entirely illustrative figure, based on the Welsh Government estimate outlined above.	£1.6 million for the pilot	No pilots planned: a separate business case will be prepared if and when a pilot is authorised.
Automatic Registration Pilots – Electoral Commission		
Evaluation of a registration pilot – illustrative figure, with caveat noted above	£100K	Cost assessment of the evaluation would be required in preparing any pilot

Access to Elected Office Fund

25. New section 29B, added at Stage 2, puts the Access to Elected Office Fund on a statutory footing. The Fund has been operating since 2016 on a non-statutory basis for parliamentary and local elections. In 2021, 28 disabled people received awards to run for party selection and as candidates in the 2021 Scottish Parliament elections. In Scottish Council elections in 2022, 54 received awards, 46 people became candidates and 22 people were elected.⁷

26. The effect of the new section will be to ensure that the Fund continues to support disabled candidates to stand for election in Scottish Parliament and local government elections as long as the provision remains in force. The Fund will be administered separately by a person designated by the Scottish Ministers, subject to the Parliament approving that designation in draft by resolution. Provision is made to allow the existing administrative arrangements for the Fund to continue without re-designating the administrator already chosen.

⁶ [Response 545889006 to Scottish Elections \(Representation and Reform\) Bill: Financial Memorandum - Scottish Parliament - Citizen Space](#)

⁷ [Part 1: The Scottish Government As A Policy Maker - Equality outcomes and mainstreaming report 2023 - gov.scot \(www.gov.scot\)](#)

27. The Access to Elected Office Fund is currently administered by Inclusion Scotland⁸ and pays for practical support to allow disabled people to fully participate in the political process. This covers the costs of support and assistance of the same character as reasonable adjustments that level the playing field between disabled and non-disabled candidates, but not general campaign costs.

28. The amendments to the Bill did not therefore create a new fund in practice but instead sought to enshrine the existing one in statute. There is therefore unlikely to be direct cost implications arising from the amendment for the next nationally scheduled elections in May 2026. However the amendment does create a recurring obligation for the Fund to continue. No minimum level of funding is set out in new section 29B and all future allocations will be decided separately. However, as an indicative cost, a recurring spend of £200,000 has been identified for each national parliamentary and local election in the future (both run on five year cycles). This is based on the size of the Fund at previous elections.

Access to Elected Office Fund – Scottish Administration	Cost	Timing
Ahead of every national local government and Scottish Parliament election, each on a 5 year cycle	£200K (parliamentary elections) £200K (local elections)	in 2025/26, then every 5 years recurring in 2026/27, then every 5 years recurring

Electoral Management Board for Scotland (EMB)

29. Part 9 of the Bill on introduction sought to enhance the capability of the EMB by making it a corporate body. The Financial Memorandum on introduction noted that this had the potential to increase its running costs, in particular if it were to appoint paid post-holders (including the Convener), reducing the over-reliance on goodwill that features in current arrangements. At paragraph 30 it was explained that providing for a paid Convener and Depute Convener (a new post envisaged by the Bill) and other staff was estimated to involve expenditure which would at most double the current budget allocation from £200K per year to £400K per year. The Memorandum acknowledged that a source for additional funds beyond the current £200K had not been identified and that the change would not occur until a business case is completed and financial provision made. At paragraph 31 of the Memorandum the Scottish Government undertook to write to the lead Scottish Parliament subject committee on elections matters (currently the Standards, Procedures and Public Appointments Committee) if and when additional funding for the planned expansion of the EMB was secured. It is considered that the £400K per year figure identified was a maximum estimate and that a lower amount is likely to be required in practice.

⁸ Inclusion Scotland, website information on access to the elected office fund (<https://inclusionScotland.org/disabled-people-become-a-leader/civic-participation/aeo-fund>)

30. The changes to the Bill at Stage 2 adjusted the constitution of the EMB and added provisions for it to report to the Scottish Parliamentary Corporate Body (SPCB), adjusting those eligible to be members and providing for two depute convener posts. The EMB will now be funded by the SPCB when the provisions are commenced. As at introduction, no obligation is created in the Bill for paid office holders to be established. As a result, the changes to the constitution at Stage 2 and the creation of depute convener posts are not considered to create direct cost implications separate to or in addition to those identified in the Financial Memorandum on introduction, with the exception of new section 47A on public bodies legislation.

31. New section 47A makes provision on application of public bodies legislation to the EMB. It will make the Board subject to Scotland’s freedom of information regime, the Public Services Reform (Scotland) Act 2010 and the Gender Representation on Public Boards (Scotland) Act 2018. It is considered that no significant costs are associated with compliance with these regimes. In relation to freedom of information, the EMB already receives information requests and endeavours to answer questions fully without having been subject to FOI legislation.

32. The additional area requiring further assessment following Stage 2 concerns the potential impact of the EMB reporting to the SPCB (rather than Scottish Ministers). This matter has been discussed with officers of the EMB and Scottish Parliament officials.

33. The EMB is currently hosted by City of Edinburgh Council and the question of whether this arrangement can and will continue following the transfer to oversight of the EMB to the SPCB is the main area for potential cost implications identified as a result of the Stage 2 amendments (for example, if the City of Edinburgh Council were to conclude that current accommodation and services provided could not continue on the current basis once the Bill’s provisions are commenced. This could include a larger office, distinct IT facilities and a web presence separate from those of the City of Edinburgh). EMB officials have engaged with the City of Edinburgh Council on this point and have concluded that any such changes can be accommodated from the EMB’s current budget allocation. That was £250K in 2023/24, an increase from previous years (see the Financial Statement in the EMB’s Annual Report 2022/23⁹). The EMB also holds money in reserve that it considers will cover any transition costs. This is separate from the additional funding for the EMB identified in the Financial Memorandum on introduction as desirable for expansion of the EMB’s activities and the appointment of paid office holders. Discussions are ongoing with the EMB and SPCB officials regarding these costs.

EMB additional costs – Scottish Parliament	Cost	Timing
Costs associated with oversight by SPCB	Factored within current budget of 200K pa	On commencement of provisions, expected to be in 2025/26 and recurring thereafter

⁹ <https://www.emb.scot/downloads/file/1053/annual-report-of-the-emb-for-scotland-2022-2023>

SUMMARY TABLE OF ESTIMATED COSTS ARISING FROM STAGE 2

Organisation	Category	Resource or Capital	Recurring or One off Cost/Saving (£)	2024/25	Notes	Paragraph
Scottish Government	Additional by-election	Resource	150-200K	n/a	Considered highly unlikely – as and when a vacancy arises	4-12
Scottish Local Authorities	Additional by-election	Resource	50-80K	n/a	Considered highly unlikely – as and when a vacancy arises	4-12
Electoral Commission	Address changes and voter education	Resource	One-off cost – nil - met by existing budge	n/a		13-17
Scottish Government	Electoral Pilots	Resource	1.6 million per pilot Note: this is an entirely illustrative figure, based on the Welsh Government estimates.	n/a	No pilots planned: a separate business case will be prepared if and when a pilot is authorised	18-24
Electoral Commission	Electoral Pilots – evaluation	Resource	100K per pilot (an illustrative figure)	n/a	Cost assessment of the evaluation would be required in preparing any pilot	18-24

*This document relates to the Scottish Elections (Representation and Reform) Bill (SP Bill 42A)
as amended at Stage 2*

Scottish Government	Access to Elected Office Fund	Resource	Recurring 200K (parliamentary elections) 200K (local elections)	n/a	in 2025/26, then every 5 years recurring in 2026/27, then every 5 years recurring	25-28
Scottish Parliament	EMB funding	Resource	Factored within current budget of 200K pa (250K in 2023/24)	n/a	Factored within current budget of 200K pa (250K in 2023/24)	29-33

Overview - indicative potential total costs based on the above

Organisation	Description	Cost (£)
Scottish Government	Parliamentary by-election	150-200K per by-election
	Registration Pilots	1.6 million
	Access to Elected Office	200K every national local or parliamentary election
Local Government	Council by-election	50-80K per by-election
Electoral Commission	Address changes and voter education	nil – met from existing budget
	Pilot evaluation	100K per pilot
Scottish Parliament	EMB transition	Within current budget of 250K for 23/24

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