

Standards, Procedures and Public Appointments Committee  
Thursday 4 September 2025  
13th Meeting, 2025 (Session 6)

## **Note by the Clerk on The Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 [draft]**

### **Overview**

1. At this meeting, the Committee will take evidence from the Electoral Commission and the Electoral Management Board for Scotland on the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 (“the Order”). Both organisations were consulted during the development of the Order. Under the terms of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission is a required consultee.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. The draft Order was laid on 23 June 2025. On 26 August 2025, the Minister for Parliamentary Business wrote to the Convener to inform the Committee that, following discussions between Scottish Government officials and Scottish Parliament officials which highlighted a drafting error, he intended to withdraw and re-lay the Order. The Order was re-laid on 28 August 2025.
3. More information about the instrument is summarised below:

**Title of instrument:** Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 [draft]

**Laid under:** The Scotland Act 1998

**Laid on:** 28 August 2025

**Procedure:** Affirmative

**Lead committee to report by:** 10 October 2025

**Commencement:** If approved, the instrument comes into force on the day after the day on which it is made. The Order sets out that it has no effect for the purposes of any election for which the date of the poll is on or before 6 May 2026.

### **Procedure**

4. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
5. Once laid, the instrument is referred to:

- the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
6. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
  7. The Committee will undertake formal consideration of the instrument at a future meeting, including evidence from the Minister for Parliamentary Business and a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.

## **Purpose of the instrument**

8. The Policy Note accompanying the instrument (attached as Annexe A) sets out that the Order makes changes to the Scottish Parliament (Elections etc.) Order 2015, the Representation of the People Act 1983 and the Political Parties, Elections and Referendums Act 2000.
9. The Order:
  - increases the age that looked after or formerly looked after people can register to vote using a declaration of local connection from 15 years old and under to those aged under 21 years old
  - clarifies the scope of Electoral Commission oversight of candidates for Scottish Parliament elections
  - updates the definitions of notional expenditure and the offence of undue influence at Scottish Parliament elections
  - reduces the dissolution period of the Scottish Parliament before a general election from 28 days to 20 days and makes consequential amendments to provisions linked to the dissolution date
  - amends the limits on election expenses which apply where the date of the poll is changed
  - updates the requirement for Returning Officers to provide equipment to assist electors to cast their votes
  - updates rules relating to proxy voting relating to some prisoners, those accompanying persons having medical treatment, and replacement of proxies where a nominated proxy is unable to vote.
10. A letter from the Minister relating to the Order is attached as Annexe B to this note.

## Background

11. The Scottish Government launched a [consultation on electoral reform](#) in December 2022. An [analysis of the responses](#) to this consultation was published by the Scottish Government in July 2023 with the [Scottish Government's formal response](#) following in October 2023.
12. The Scottish Government subsequently introduced the Scottish Elections (Representation and Reform) Bill in January 2024. The Bill was considered by the Committee at Stages 1 and 2 between March and June 2025. The Bill was agreed to by the Parliament at Stage 3 and became an Act on 31 January 2025.
13. Not all of the issues on which the Scottish Government proposed to bring forward legislative change were included in the Bill. Prior to giving evidence at Stage 1, the [Minister for Parliamentary Business wrote to the Committee](#) setting out "where the Government intends or is considering bringing forward secondary legislation on electoral reform". A copy of the letter, which was received on 30 April 2024, after the Committee had taken evidence from stakeholders, is included as Annexe C to this note.
14. In its [Stage 1 report](#) on the Bill, the Committee noted that it:

"took limited evidence on some of the issues raised in the Scottish Government's consultation but not in the Bill. In particular, the Committee asked witnesses for their views on free mailouts for candidates at local government elections and the extension of emergency proxy votes to certain individuals. These were measures which were commented on by respondents to the Scottish Government's consultation and were also raised in responses to the Committee's call for views and were not issues which were picked up elsewhere as was the case, for example, in relation to accessibility of elections...

As such, the Committee was not able to explore the areas mentioned in the letter to their full extent."

15. The Stage 1 report also commented on a [letter from the Electoral Management Board for Scotland to the Minister for Parliamentary Business](#) which set out some concerns in relation to the proposals contained in the 30 April letter from the Minister to the Committee. These concerns were:
  - Proposed changes to the period of dissolution before Scottish Parliament elections from 28 working days to 20 working day. The letter sets out that "in the view of the EMB, this would be an unacceptable change which would place the delivery of elections at severe risk. (...) To limit the timetable to 20 days would leave insufficient time for postal ballot papers to be produced, dispatched and returned."
  - The timing of the counting of votes at Scottish Parliament Elections (next day rather than overnight counts). This issue is noted in relation to Rule 54 of schedule 2 to the Scottish Parliament (Elections) Order 2015 and concerns that it effectively requires overnight counts for Scottish Parliamentary elections. The Convener of the EMB sets out that "it is my view and that of Returning Officer colleagues that a count commencing on

the day following the poll is appropriate and meets the requirement of this rule” and that “the safe and efficient provision of a count for an event as complex as a Scottish Parliament election is best served by the use of staff who are well rested with access to all support and resources. That is not the case with an overnight count.”

- That the design of forms should be delegated to the EMB’s Forms Working Group: “Given the developing role and remit of the EMB this new responsibility would be wholly appropriate but the EMB would require sufficient funding to allow this work to be professionally resourced.

16. In relation to the second of the concerns raised by the EMB, following further discussions between the EMB and Scottish Government, the Minister wrote to the EMB, copied to the Committee, on 24 June 2025. In that letter (attached as Annexe D), the Minister set out that he has:

“concluded against seeking to make any specific provision on count timing in the Conduct Order for next year’s election, which I expect to lay before the Scottish Parliament before summer recess. I think that it is preferable to rely on the expertise of the electoral community on this matter and your judgment as Convener of the Board.”

17. The Minister went on to highlight:

“the concern we discussed about any variation in practice between overnight and next day counts across the country. A difference in practice across the country could be confusing for the public. If any change from established practice is to occur then I would expect the EMB and ROs to take appropriate steps to ensure the change was fully communicated, explaining the rationale for any approach to candidates and the public at large.”

## **Matters not included in the Order**

18. A number of issues that were consulted on, and on which the Scottish Government had indicated it was considering addressing via subordinate legislation, are not included in the Order. The Committee may wish to seek the views of witnesses on what the Order does and does not do ahead of a future evidence session with the Minister.

## **Conclusion**

19. The Committee is invited to take evidence from the Electoral Commission and the Electoral Management Board for Scotland and to then discuss the evidence it has heard.

**Clerks to the Committee**  
**September 2025**

## Annexe A: Scottish Government Policy Note

### THE SCOTTISH PARLIAMENT (ELECTIONS ETC.) (MISCELLANEOUS AMENDMENTS) ORDER 2025

SSI 2025/XXX

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 12(1) and 113(2), (4) and (5) of the Scotland Act 1998 and all other powers enabling them to do so.

In accordance with section 7(1) and (2)(g) of the Political Parties, Elections and Referendums Act 2000(b), the Scottish Ministers have consulted the Electoral Commission.

The instrument is subject to *affirmative procedure*.

#### **Purpose of the instrument.**

This Order makes changes to the Scottish Parliament (Elections etc.) Order 2015, the Representation of the People Act 1983 and the Political Parties, Elections and Referendums Act 2000. It increases the age that looked after or formerly looked after people can register to vote using a declaration of local connection from 15 years old and under to those aged under 21 years old. It clarifies the scope of Electoral Commission oversight of candidates for Scottish Parliament elections. It updates the definitions of notional expenditure and the offence of undue influence at Scottish Parliament elections. It reduces the dissolution period of the Scottish Parliament before a general election from 28 days to 20 days and makes consequential amendments to provisions linked to the dissolution date. It amends the limits on election expenses which apply where the date of the poll is changed. It updates the requirement for Returning Officers to provide equipment to assist electors to cast their votes. It also updates rules relating to proxy voting relating to some prisoners, those accompanying persons having medical treatment, and replacement of proxies where a nominated proxy is unable to vote. The changes will apply to all Scottish Parliament elections which take place on or after 7 May 2026.

#### **Policy Objectives**

1. The purpose of this instrument is to update the rules governing the conduct of elections of members of the Scottish Parliament. It does this by amending the Scottish Parliament (Elections etc.) Order 2015 (“the 2015 Order”, SSI 2015/425). The instrument also makes changes to the Representation of the People Act 1983 (“the 1983 Act”), as regards the age of looked after children for registering using a declaration of local connection, and the Political Parties, Elections and Referendums Act 2000 (the 2000 Act) as regards the duty of the Electoral Commission to monitor and ensure compliance with restrictions and requirements in relation to elections expenses and donations to candidates and elections agents.
2. Section 3 to 10 of the Scotland Act 2016 (“the 2016 Act”) transferred, from the

Secretary of State for Scotland to the Scottish Ministers, the power to make provisions about electoral registration and the conduct of elections for, and the return of members to, the Scottish Parliament (insofar as they had not already been transferred by sections 1 and 3 of the Scotland Act 2012). Sections 3 to 10 of the 2016 Act were commenced by the Scotland Act 2016 (Commencement No. 6) Regulations 2017 (SI 2017/608) and came into force on 18 May 2017. This instrument exercises the powers of Scottish Ministers in these areas.

3. In terms of section 2(2) of the 1998 Act (as amended by the Scottish Elections (Reform) Act 2020) the next ordinary general election to the Scottish Parliament is scheduled to take place on 7 May 2026.

4. Most of the rules which governed the running of the Scottish Parliament general election held in May 2021 will remain the same. However, this instrument does include a number of changes which reflect developments since the last election.

5. The changes set out in these regulations are as follows:

### **Notional residence: declaration of local connection (Article 2)**

6. Certain individuals who do not have a fixed or permanent address, may register by making a declaration of local connection. The effect of a declaration of local connection is that the declarant can be registered by reference to an address which may not be the one at which they normally reside. Section 7B of the 1983 Act also provides an additional ground for 14- and 15-year-old applicants to the local government register in Scotland, which is used for Scottish Parliament elections. Those applicants may apply to register using a declaration of local connection if they are, or have been, looked after by a Scottish local authority, or if they are or have been resident in secure accommodation (if they are “care experienced”).

7. Following consultations with electoral administrators and other Governments within the UK, this Order will extend the right of care experienced persons to register by making a declaration of local connection to those aged under 21 years old. This change will assist care experienced individuals aged under 21 in registering to vote.

### **Duties of the Commission with respect to compliance with controls imposed by the 2000 Act etc. (Article 3)**

8. Section 145 of the 2000 Act sets out the role of the Electoral Commission in monitoring and securing compliance with the restrictions and other requirements imposed by various sections of the 2000 Act, or some other enactments, relating to election expenses incurred, and donations received, on behalf of candidates. This includes the ability to produce and publish guidance on expenses rules. However, this monitoring and compliance duty does not apply to any election expenses or donation restrictions or requirements contained in an Act of the Scottish Parliament or secondary legislation made under such an Act.

9. This amendment extends the monitoring and compliance duty so that the Electoral Commission will also now have a statutory role in monitoring donations to and expenditure by candidates or their election agents which is controlled by

requirements or restrictions contained in any Act of the Scottish Parliament or secondary legislation made under such an Act.

### **Payment of expenses through election agent: constituency and individual regional candidates (Article 5)**

10. Article 5 amends article 38(4) of the 2015 Order the effect of which is that expenses incurred under article 41(1) by a third party authorised in writing by the election agent do not have to be paid by the election agent. The amendment ensures that third parties are able to both incur and pay for authorised expenses under article 38, rather than the expenses being paid through the agent of the candidate they are promoting. This is related to the change to notional expenditure in article 7 of this Order and achieves the same result as section 22 of the Elections Act 2022 in relation to UK Parliament elections. This change was recommended by the Electoral Commission.

### **Limitation of election expenses (Article 6)**

11. Section 2(5) of the Scotland Act 1998 allows that the Presiding Officer may propose a date that is up to 4 weeks earlier, or 8 weeks later from when an ordinary general election to the Scottish Parliament would otherwise have been scheduled. Under section 2(5E), which was introduced by the Scottish Elections (Representation and Reform) Act 2025 ("the 2025 Act"), the Presiding Officer may also, after proposing a new date under section 2(5), propose a further (new) date which is up to 8 weeks later than the date previously fixed. Taken together, this could have the overall effect of a postponement of up to 16 weeks.

12. Article 42(2A) of the 2015 Order states that where a poll is postponed under section 2(5) in this way the expenditure limit for political party campaign spending is increased by 50%, to allow for the increased expense of a longer campaign.

13. The Electoral Commission have highlighted that this increase in spending limits would apply after the first postponement by proclamation and but the limit would not change because of a second postponement by proclamation under section 2(5E). Following discussions with the Electoral Commission about the implications of a second increase, the Government has decided to ensure additional expenditure of up to 50% of the original limit can be permitted in the event of both a first and a second postponement.

14. In addition, the provision in article 42(7), that the maximum amount of election expenses is multiplied by two where the death of a candidate causes a poll to be abandoned or countermanded is amended such that the spending limit is instead increased by the addition of 100% of the original spending limit in the event that poll is abandoned or countermanded because of a candidate death.

15. Article 6(1)(b) adjusts the exemption for candidate campaign expenditure in relation to security. The Electoral Commission had highlighted that the current exemption only applies to security costs in relation to rallies or other public events and that is possible for candidates to incur security expenses in other ways (e.g. on cybersecurity and canvassing security). The new formulation is modelled on the provision for UK Parliament elections contained in the Political Parties, Elections and

Referendums Act 2000.

16. Article 6(1)(d) sets out that any increase in election expenditure due to proclamations made by His Majesty or following the death of a candidate or candidates are cumulative to, and not multiples of, the original expenditure limit. For example where a poll is postponed once and then abandoned due to the death of a candidate, an increase of 50% of the original limit is applied (in respect of the postponement) and then an increase of 100% of the original limit (in respect of the death) such that the applicable limit is 250% of the original spending limit.

### **Notional expenses (Article 7)**

17. The UK Elections Act 2022 updated the definition of notional expenditure in relation to UK parliamentary elections in Scotland (section 90(c)(1A) of the 1983 Act). It is considered that applying the same definition to Scottish Parliament and local government elections will help ensure the rules are clear and consistent for campaigners and candidates across all elections in Scotland.

18. The 2025 Act included provisions which update the definition of notional expenditure at local government elections, and of notional expenditure by political parties and third parties at Scottish Parliament elections. Because the same changes to the definition of notional expenditure by candidates at Scottish Parliament elections could be made by secondary legislation they were not included in the 2025 Act.

19. In line with the changes already made in the 2025 Act, article 7 updates the definition of notional expenditure by candidates at Scottish Parliament elections so that it reflects the changes already made for local government elections and of notional expenditure by political parties and third parties at Scottish Parliament elections by the 2025 Act.

### **Undue influence (Article 8)**

20. The existing offence of "undue influence" has been in place since the 19th century, and there is general agreement that the language requires revising and updating. By using modern terminology, and by clearly separating out the types of conduct that can cause undue influence the Scottish Government is clarifying what constitutes undue influence to make the legislation easier to interpret and enforce. This is consistent with changes made for UK parliamentary elections by the Elections Act 2022. This modernised wording does not change the scope of the offence.

21. The activities listed in the revised article 77(4) of the 2015 Order are considered as being an undue influence, when carried out for the purpose of inducing a person to vote in a particular way, inducing them not to vote at all, or otherwise interfering with their free exercise of their vote.

### **Meaning of Candidate (Article 9)**

22. Article 80(1)(a) of the 2015 Order sets out that a person becomes a candidate at a Scottish Parliament election for the purposes of the Order on the date of either:



- (i) the dissolution of the Scottish Parliament; or
- (ii) in the case of an election under section 9 of the 1998 Act (constituency vacancies), the occurrence of the vacancy,

if on or before that date the person has been declared (for example, announced by their party) to be a candidate at the election in question.

23. As the legislation currently stands, the date on which a person becomes a candidate is tied to the date of dissolution of the Parliament. One of the consequences of the change to the minimum period for the dissolution of Parliament (see article 10), would be that a person who has already been declared a candidate would only become a candidate under this provision at the start of the period of 20 working days ending with the poll, rather than 28 working days ending with the poll. In relation to the election scheduled to be held on 7 May 2026 the dates would be 9 April 2026 (20 day period) and 26 March 2026 (28 day period) respectively.

24. Following discussions with the Electoral Commission, the Scottish Government has decided that the status quo should be maintained. Article 9 therefore removes the link between a person becoming a candidate and the dissolution of the Parliament, (as the date for that is changing) and replaces it with a specific reference to “27 days before the date of the poll”. This period excludes weekends and public holidays but does not count the date of the poll. In relation to the election scheduled to be held on 7 May 2026 this means persons become candidates on 26 March 2026.

### **Dissolution of Parliament: minimum period (Article 10)**

25. Under article 84 of the 2015 Order, taken together with section 2(3) of the Scotland Act 1998, the Scottish Parliament is dissolved a minimum of 28 working days before the date of the poll at a Scottish Parliament General Election (SPGE). Working days for this purpose excludes weekends and public holidays in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time). Section 2(3)(a) of the Scotland Act 1998 means that the day of the poll is included in calculating this period.

26. Paragraphs 96 to 98 of the Policy Memorandum to the 2025 Act discuss the risk of a UK Parliament General Election (UKGE) being called on the same date as a scheduled SPGE. When the Prime Minister calls a UKGE, the House of Commons will dissolve 25 working days prior to polling date, which means that a snap UKGE could be called for a date on or close to a SPGE, after the Scottish Parliament has already been dissolved and is unable to react.

27. To allow the Scottish Parliament the opportunity to pass emergency legislation to move the SPGE date, should such a situation arise, article 10 of this Order reduces the 28 working day period to 20 working days. In relation to the election scheduled to be held on 7 May 2026 this will mean dissolution on 9 April 2026. This is achieved by an amendment to article 84 of the 2015 Order. No change is intended to the election campaign period: while timing of any Parliamentary recess is a matter for the Scottish Parliament, it is envisaged that it will choose to go into a pre-election recess 27 working days prior to polling day, so as to avoid any overall change to the campaign period. This results in a 28 working day period, inclusive of polling day,

and is the same time period as set out in the law prior to this Order and the change made by article 10. Article 9 makes some incidental changes to the definition of candidate as a result of the change to the dissolution period.

### **Effect of demise of the Crown (Article 11)**

28. As mentioned above, in describing article 6 on limitation of election expenses, section 2(5E) of the Scotland Act 1998 allows the Presiding Officer, to propose a second (new) date for a general election which is up to 8 weeks later than any date previously fixed which may result in a delay totalling 16 weeks.

29. This article makes a consequential amendment to allow any proclamation dissolving the Parliament, following the Presiding Officer proposing a second date for the holding of the poll, to remain valid if the demise of the Crown were to occur before the day of poll.

### **Supply of free copy of full register for electoral purposes (Article 12)**

30. This is a further consequential change flowing from the change to the minimum period for the dissolution of Parliament (see above).

31. Currently, paragraph 1 of schedule 1 to the 2015 Order, taken together with paragraph 1(2)(a) of the same schedule, requires electoral registration officers to supply returning officers with the latest version of the electoral register as soon as practical after the dissolution of the Scottish Parliament. As is the case with the meaning of candidate (see above), the change to the minimum period for the dissolution of Parliament would have a consequential effect on when Electoral Registration Officers would pass copies of the electoral register to Returning Officers.

32. Following discussions with Electoral Registration Officers and Returning Officers, the Scottish Government has decided that the status quo should be maintained. This article therefore removes the link to the dissolution of the Parliament and replaces it with a specific reference to “27 days before the date of the poll”. This period excludes weekends and public holidays but does not include the day of the poll. In relation to the election scheduled to be held on 7 May 2026 this means the register is to be provided on 26 March 2026.

### **Provisions as to time (Article 13)**

33. Rule 1A in schedule 2 of the 2015 Order sets out the duties of a Returning Officer if a poll is postponed. Article 13 makes amendments to Rule 1A of the 2015 Order to account for a situation where proceedings at a Scottish parliamentary election are postponed twice by proclamation. This is a consequence of section 2(5E) of the Scotland Act 1998, which allows the Presiding Officer to propose a second postponement to the date of the poll at a Scottish Parliament election.

### **Equipment of polling stations (Article 14)**

34. This provision removes the detailed description of the tactile voting device which is currently set out in Rule 38 of schedule 2 to the 2015 Order and replaces it

with a broader requirement for returning officers to provide appropriate support to aid accessibility at polling stations. It also requires the Electoral Commission to provide guidance for returning officers on how they can comply with the new requirement. This is broadly in line with what the UK Government has already done for UK Parliamentary elections in the Elections Act 2022.

35. The Electoral Commission's "Guidance for Returning Officers - Assistance with voting for disabled voters" at UK Parliamentary elections includes a requirement that returning officer must provide a tactile voting devices which voters, who are visually impaired, can use to mark their vote on the ballot paper in the correct place. The Scottish Government expects a similar requirement is likely to feature in the Electoral Commission's equivalent guidance for Scottish Parliament elections.

36. The intention is to allow for more flexibility and to ensure that the accessibility support offered can be adapted and evolve to take account of future innovations. The Scottish Government is currently working with organisations representing people with visual impairments to design a tactile voting device which is easier to use.

### **Proxy voting (Article 15)**

37. This article makes various amendments to absent voting provisions and allows for late applications for emergency proxy votes in certain circumstances.

38. The Scottish Government was asked by the Electoral Commission and electoral registration officers to consider expanding the categories of voters who are entitled to apply for an emergency proxy to include those who find themselves unable to vote in person, because they are acting as a companion for someone who needs to be accompanied to an unplanned medical appointment. In particular, this affects those who care for young or older people. This policy change was discussed in the Electoral Reform Consultation (see Consultation section) and was supported by 61% of respondents, including 100% of organisations.

39. In line with the support for this proposal, article 15(1)(a) amends the emergency proxy provisions contained in paragraph 7 of schedule 3 to the 2015 Order to allow anyone who cannot vote in person, due to them accompanying another person to attend medical care or treatment, to apply for an emergency proxy vote. Applications must be attested and signed by a person who is aged 16 years or over, knows the applicant, and is not related to the applicant. The person attesting must also state the reasons why the applicant was unable to make the application before 5 pm on the sixth day before the date of the poll. As for other emergency proxy votes, the deadline for applications will be 5 pm on the date of the poll.

40. Article 2(4) of the Scottish Parliament (Elections etc.) Amendment (Coronavirus) Order 2021 allowed for a voter who had appointed a proxy to change their proxy if the proxy would not be able to vote in person, due to having to follow Scottish Government advice or the advice of a registered medical practitioner in relation to coronavirus. The intention was to ensure that the voter would not lose their vote if their proxy were unable to vote due to coronavirus restrictions. This article was covered by a sunset provision and no applications could be made under it on or after 10 December 2022.

41. The Scottish Government is of the view that no-one should lose their right to vote due to their chosen proxy not being able to vote on their behalf. Therefore article 15(1)(b) introduces a new provision that enables an elector with a proxy vote to appoint an alternative proxy, if the proxy cannot reasonably be expected to vote in person at the polling station allocated to the elector and they do not have a postal vote. The deadline for such an application will be 5 pm on the day of the poll at the election, as provided for in paragraph 9(3A) of schedule 3 to the 2015 Order. For people with a continuing proxy vote (for multiple elections) the new proxy will remain on the system until a new change is made. It will remain open to voters to make an application to change the identify of their proxy following the election.

42. Article 15(1)(c) amends the deadline for emergency applications made on grounds that the applicant is detained in prison, so that prisoners who are eligible to vote in Scottish Parliament elections can apply for an emergency proxy vote until 5 pm on the date of the poll. This deadline will apply irrespective of when the applicant was originally detained in prison.

### **Replacement postal ballot papers (Article 16)**

43. Following representations from returning officers about the practical difficulties associated with being required to make provision for the issuing of replacement postal ballot packs up to 10 pm on the day of poll, the Government has agreed that the deadline for issuing replacements for lost or spoilt postal ballot packs should be brought forward to 5 pm on the day of poll. This change reflects that few, if any, replacement ballot packs were requested between 5 pm and 10 pm at either the Scottish Parliament elections in May 2021 or the local government elections in May 2022. It also allows for more consistent messaging to voters by aligning the deadline for replacement postal ballot packs with that for requesting an emergency proxy.

44. Paragraph 16(2) amends the Appendix of Forms, to update references from 10 pm on day of poll to 5 pm on day of poll. This applies to the following forms:

- Form K (postal voting statement);
- Form L2 (Official poll card (to be sent to an elector voting by post));
- Form M2 (Official poll card (to be sent to a proxy voting by post));
- Form T (postal voting statement);
- Form U (postal voting statement).

### **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

45. The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish

Ministers certify that, in their view, the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

## **EU Alignment Consideration**

46. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

## **Consultation**

47. The Scottish Government's Electoral Reform Consultation ran between 14 December 2022 and 15 March 2023. The consultation requested views on a number of issues, including the following:

- Notional expenses
- Undue influence
- Dissolution of Parliament: minimum period
- Equipment of polling stations
- Proxy voting for carers

48. 517 responses to the consultation were received, 94% from individuals, and 6% from organisations. The Scottish Government published an independent analysis of the consultation on 31 July 2023. Copies of the consultation, responses and the analysis are available on the Scottish Government's website.

49. Proposed secondary legislation on Scottish Parliament elections was discussed by the Scottish Parliament during the passage of the Scottish Elections (Representation and Reform) Act 2025. Electoral Administrators, including returning officers and electoral registration officers, and other external stakeholders, such as the Royal National Institute of Blind People for Scotland and the Scottish Parliament Corporate Body, have been involved in discussions on relevant aspects of this Order.

50. As well as the general consultations, the following bodies and stakeholders were specifically consulted during the finalisation of the draft Order:

- Electoral Commission
- Electoral Management Board for Scotland
- Association of Electoral Administrators
- Electoral Registration Committee of the Scottish Assessors Association
- COSLA

- Scottish Parliament Political Parties Panel
- Scottish Parliament officials
- The Information Commissioner

51. The responses to these consultations have helped informed the content of the draft Order.

52. The Electoral Commission were consulted extensively during the drafting of this Order and, in accordance with section 7(1) and (2)(g) of the Political Parties, Elections and Referendums Act 2000(b), the Scottish Ministers have also formally consulted the Electoral Commission on the finalised order.

## **Impact Assessments**

53. The Scottish Government has prepared a Child Rights and Wellbeing Impact Assessment (CRWIA). The CRWIA notes that the provision allowing for looked after or formally looked after children and young people to register to vote by declaration of local connection has a positive impact on the rights of the child, albeit for a small cohort of children and young people. The rest of the Order has no impact on the rights of the child.

54. An Equalities Impact Assessment (EQIA) has been prepared, outlining the impacts on groups with protected characteristics. There is minimal differential impact on these groups, and where there are differences, the EQIA finds that there is a positive impact.

55. This Order makes some amendments relating to processing of data in an electoral context. Electoral Registration Officers continue to be data controllers of the electoral register and related data, and the changes made in this Order ensure that the data collected is consistent with existing practice. Scottish Government have consulted the Information Commissioner on these changes, and no concerns have been raised to date. A Data Protection Impact Assessment (DPIA) has not been completed as there will be no change to the data held by the Scottish Government as a result of this Order.

56. The Scottish Government view is that this Order has no significant impact on data protection, the environment, fairness; island communities and therefore no impact assessments are required for those areas.

## **Business and Regulatory Impact Assessment (BRIA)**

57. The Minister for Parliamentary Business confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

## **Financial Implications**

58. There are no specific significant costs associated with the changes made in this order, however it is estimated that the cost of running the Scottish Parliament general election in May 2026 will be about £30 million. This amount is made up of

two main elements: returning officers' charges for services rendered and expenses incurred; and payments to Royal Mail for the delivery of candidates' election material. These estimated costs are based on comparisons with the cost of delivering previous elections across the UK. The expected cost of holding the election will not be impacted by the changes made in this Order.

59. Under article 18 of the 2015 Order, returning officers will be entitled to recover their costs and fees in respect of the election from the Scottish Government. The total amount that returning officers will be entitled to recover for delivery of the poll and the count will be set out in a separate fees and charges order. These costs will initially be borne by local authorities but will be reimbursed by the Scottish Government. Following normal practice at other elections, advance payments of up to 75% of returning officers' expenses may be made prior to the poll, with the remaining balance being paid once individual returning officers' accounts have been submitted and verified.

60. At the May 2021 Scottish Parliament general election, returning officers charges amounted to about £19.1 million, of which about £3.7 million was for costs specifically identified as relating to the Covid pandemic. Since then, there has been an increase in registration levels and political engagement which, together with increases in the number of electors voting by post, will result in increased costs. For comparison purposes, at the May 2016 Scottish Parliament general election, returning officers charges amounted to £11.9 million.

Scottish Government Directorate for Constitution

August 2025

**ANNEXE B: LETTER FROM THE MINISTER FOR PARLIAMENTARY BUSINESS  
TO THE CONVENER – 24 JUNE 2025**

**Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025**

I am writing to highlight that the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 (“the Conduct Order”) was laid in draft before the Scottish Parliament on 23 June 2025.

As you will be aware, the Conduct Order makes a number of changes to electoral law ahead of the May 2026 Scottish Parliament election. Many of these changes have been discussed previously with the Committee, during the passage of the Scottish Elections (Representation and Reform) Act 2025 and in other correspondence. I have attached as an Annex to this letter a short summary of the changes contained within the Order.

I hope that you agree that the changes set out in the draft Order will modernise aspects of our electoral system, and ensure that the upcoming Scottish Parliament election meets the expectations of voters, campaigners, and electoral administrators.

I would also like to note my thanks to the stakeholders who have engaged with me and my officials in the drafting of the Conduct Order. In particular the contributions of the Electoral Commission, Electoral Registration Officers, Scottish Parliament officials and the Electoral Management Board for Scotland have been gratefully received throughout the process.

I look forward to engaging with you and the other members of the Committee as the Conduct Order is considered by Parliament.

**JAMIE HEPBURN**

**ANNEX**

**Summary of policy changes - Scottish Parliament (Elections etc.)  
(Miscellaneous Amendments) Order 2025**

- Allowing for registration by declaration of local connection for looked-after children or formerly looked-after children for those under age 21.
- Clarifying the law to ensure Electoral Commission has spending oversight of all candidate spending at Scottish Parliament elections, including requirements in devolved legislation.
- Allowing both authorisation and payment of expenses by an authorised third party, in addition to the campaign agent, in relation to notional expenditure.
- Amending the calculation of additional Scottish Parliament election expenditure in the case of postponement of the election by the Presiding Officer, or the death of a candidate, so that additional expenditure is cumulative rather than a



multiplier of the original limit and to allow for an increase in the event of a second postponement.

- Amending the exemption for candidate campaign expenditure in relation to security, so that it applies to a wider set of circumstances than just public rallies or events.
- Amending the definition of notional expenditure for candidates at Scottish Parliament elections, in line with the UK Elections Act 2022 and Scottish Elections (Representation and Reform) Act 2025.
- Adopting the wording of the offence of undue influence made in the Elections Act 2022 for Scottish devolved elections.
- Amending the definition in legislation of a candidate at a Scottish Parliament election, by linking it to 28 working days before the date of the poll rather than to dissolution.
- Reducing Scottish Parliament dissolution period to 20 working days before the poll. No change to electoral timetable, and the 'lost' dissolution time is intended to be replaced with a pre-election recess.
- Consequential to the change in dissolution period, ensuring the supply of a free copy of the electoral register to Returning Officers for electoral purposes.
- Ensuring that a proclamation dissolving the Parliament, following the Presiding Officer proposing a second postponed date for the holding of the poll will remain valid in the event of the demise of the Crown.
- Removing the detailed description of the Tactile Voting Device (TVD) in legislation, and replacing it with a broad requirement for Returning Officers to provide appropriate support to aid accessibility at voting stations. The Electoral Commission is also required to provide guidance as to this support.
- Allowing emergency proxy votes to be available to those accompanying people to medical appointments.
- Allowing the appointment of replacement proxies if a proxy is unable to vote.
- Amending the deadline to apply for an emergency proxy vote to 5pm on the date of the poll if the applicant is detained in prison, irrespective of when the applicant was originally detained.
- Changing deadline for replacement of lost or spoilt postal vote packs from 10pm to 5pm on voting day.

## **ANNEXE C: LETTER FROM THE MINISTER FOR PARLIAMENTARY BUSINESS TO THE CONVENER – 30 APRIL 2024**

### **Electoral Reform – Secondary Legislation**

I am looking forward to discussing the Scottish Elections (Representation and Reform) Bill with the Committee on 2 May. As you know, the Bill progresses reforms outlined in the Scottish Government's Electoral Reform [Consultation](#) which ran from 14 December 2022 to 15 March 2023. There were however other potential electoral changes discussed in the consultation paper that are not included in the Bill. In some instances, the Government is still actively considering amendments to the law, but in secondary legislation rather than in the Bill.

I therefore thought that it would be helpful to set out where the Government intends or is considering bringing forward secondary legislation on electoral reform. This is expected to be in the first half of 2025 to ensure that the proposed changes will be in place well before the May 2026 Scottish Parliament election.

The Annex to this letter therefore details policy proposals where I would value the views of the Committee on potential changes to legislation. I have highlighted certain measures where thinking is quite well developed and also possible measures where we would be interested in your thoughts.

The Annex does not describe any secondary legislation that might arise directly from the Bill as that is discussed in the Bill's [Delegated Powers Memorandum](#). It does though highlight possible secondary legislation in relation to emergency re-scheduling of elections as highlighted in evidence provided to the Committee.

While the detail is set out in the Annex, the following list provides an overview of the key secondary legislation changes described:

- Amending the dissolution period before Scottish Parliament elections
- Amending the definition of notional expenditure for Scottish Parliament candidate spending
- Modernising the definition of undue influence
- Allowing candidates to show their ward of residence on local government ballot papers
- Giving election agents the option of providing a correspondence address
- Replacing the requirement for a tactile voting device (TVD) with a general responsibility for Returning Officers to provide appropriate support
- Allowing Boundaries Scotland to access limited electoral register attainer data when conducting reviews.
- Uprating campaign expenditure limits
- Allowing voter registration on local connection grounds for looked after children

- Updating the allowed evidence to support an application for anonymous registration
- Allowing those accompanying people attending medical appointments to apply for an emergency proxy vote
- Allowing prisoners on remand to apply for an emergency proxy vote
- Allowing the appointment of a replacement proxy if a proxy voter is no longer able to vote on someone's behalf
- Limiting campaign free mailings to one per household
- Extending free mailings to local government candidates
- Increase the number of disabled voters who can be assisted by an individual companion
- Standardise dies-non for election and registration purposes
- Next-day counts at Scottish Parliament elections
- Delegate forms design to the Electoral Management Board for Scotland's Forms Working Group
- Changes in the event of a rescheduled election

This letter is not an exhaustive list of all secondary legislation that could be implemented ahead of the next elections in 2026 and 2027, but is an overview of the main areas that the Government is actively considering.

Please note that all these proposals are still under active consideration and will be subject to further consultation with stakeholders. It is highly likely that there will be some changes to the proposals set out in the attached Annex as a result.

I would of course welcome comments on all aspects of this letter and would be very happy to meet with the Committee to discuss further.

I hope that this information is helpful. I am copying this letter to the Electoral Commission, Scotland and to the Convener of the Electoral Management Board for Scotland.

Kind regards,

George Adam

Minister for Parliamentary Business

## **Annex: Possible amendments to secondary legislation for elections**

### **Dissolution before Scottish Parliament elections**

Currently [article 84](#) of the Scottish Parliament (Elections etc.) Order 2015, taken together with [section 2\(3\)](#) of the Scotland Act 1998, requires that the Scottish Parliament must be dissolved at least 28 “working days” before the date of the poll at a Scottish Parliament General Election (SPGE).

Paragraphs 96 to 98 of the Scottish Elections (Representation and Reform) Bill’s [Policy Memorandum](#) discuss the risk of a UK Parliament General Election (UKGE) being called on the same date as a scheduled SPGE. When the Prime Minister calls a UKGE, the House of Commons will dissolve 25 working days prior to polling date, which means that a snap UKGE could be called for a date on or close to a SPGE, after the Scottish Parliament has been dissolved and is unable to react.

In order to allow the Parliament to pass emergency legislation to move the SPGE date, should such a situation arise, the Government is considering if the 28 working day period could be reduced to 20 working days. This would be achieved by an amendment to article 84 of the Scottish Parliament (Elections etc.) Order 2015.

### **Clarify definition of notional expenditure for candidates at Scottish Parliament elections**

The Scottish Elections (Representation and Reform) Bill includes provisions which update the definition of notional expenditure at local government elections, and of notional expenditure by political parties and third parties at Scottish Parliament elections.

The same definition of notional expenditure relating to candidate spending at Scottish Parliament elections can be made in secondary legislation, and the Scottish Government intends to make secondary legislation to this effect if the Bill provisions are agreed by the Scottish Parliament.

The UK Elections Act 2022 updated the definition of notional expenditure in relation to UK Parliamentary elections in Scotland ([section 90\(c\)\(1A\)](#) of the Representation of the People Act 1983 (“ROPA 1983”). Applying the same definition to devolved Scottish elections will help ensure the rules are clear and consistent for campaigners and candidates across all elections in Scotland.

### **Modernise definition of undue influence**

The existing offence of “undue influence” has been in place since the 19<sup>th</sup> century, and the language requires revising and updating. The Scottish Government intends to clarify what constitutes undue influence in order to make the legislation easier to interpret and enforce. It will do so by using modern terminology, and by clearly separating out the types of conduct that can cause undue influence.

It is proposed that the following activities should be considered undue influence, when carried out for the purpose of forcing a person to vote in a particular way, forcing them not to vote at all, or otherwise interfering with their free exercise of their vote:

- a) The use or threat of physical violence;
- b) Damage or destruction to property (or the threat of such damage or destruction);
- c) Reputational damage (or the threat of such damage);
- d) Causing or threatening to cause financial loss;
- e) Causing spiritual injury or exerting undue spiritual pressure. 'Undue spiritual pressure' refers to a level of improper or inappropriate pressure which goes beyond the free expression of opinions on political or other matters that have implications for the principles of a religion;
- f) Any other act or omission designed to intimidate a person which is not already covered above;
- g) Any act or omission designed to deceive a person in relation to the running of an election

It is intended that this provision will be similar to the revised definition included in the UK Elections Act 2022 at UK Parliamentary elections (set out in [section 114A](#) of ROPA 1983).

### **Candidate ward of residence shown on ballot paper**

Candidates standing at local government elections have a choice of what form of address appears on ballot papers. Currently, they can choose to show their whole home address; their local council area; or their country of residence, if they reside outside Scotland. The requirement for candidates' home addresses to be printed on the ballot paper was removed prior to the May 2022 local government elections.

Following the 2022 local government elections, the Scottish Government received feedback that only allowing for the local government area where the candidate is resident on the ballot paper did not allow voters to easily identify candidates who lived in the same locality. This was a particular issue in relation to islands and more remote areas, where a candidate may live in the same local government area but may be based a significant distance from the ward where they are standing.

The Scottish Government intends to add an additional option of allowing candidates to choose to include the ward where they reside on the ballot paper as an alternative to their home address, local government area or country of residence.

This policy change was discussed in the Scottish Government's Electoral Reform [Consultation](#), and was [supported](#) by 90% of respondents, including 100% of organisations.

### **Candidate agents having option of providing a correspondence address**

Currently an agent for a candidate must provide an address at which they can be contacted for election purposes. Concern has been expressed that in the situation where a candidate or a member of their immediate family is acting as their agent that, if the address they have to provide is their home address, this could lead to a security risk for the candidate or their family.

The Scottish Government is therefore proposing to allow any individual acting as an agent, either for themselves or another person, to provide a correspondence address, should they wish to do so. This will allow anyone to act as an agent without having to publicise their home address, unless they specifically choose to do so. The Electoral Commission will provide guidance for candidates and agents on the options available around providing a correspondence address for election purposes.

This policy change was discussed in the Scottish Government's Electoral Reform [Consultation](#), and was supported by 75% of respondents, including 90% of organisations.

### **Replacing the requirement for a tactile voting device (TVD) with a general responsibility for Returning Officers to provide appropriate support**

The Scottish Government is proposing to remove the detailed description of the Tactile Voting Device (TVD) and replace it with a broader requirement for ROs to provide appropriate support to aid accessibility at polling stations and for the EC to provide guidance. This is broadly in line with what the UK Government did in the Elections Act and the Welsh Government's proposed changes<sup>1</sup>.

The intention is to standardise the provisions at both Scottish Parliament and local government elections in a way which allows for more flexibility and ensures that the accessibility support offered can be adapted and evolve to take account of future innovations.

It is expected that the proposed provisions for Scottish Parliament and local government elections will broadly follow those which have already been put in place for UK Parliament elections. These revised provisions can be found in [rule 29](#) of schedule 1 to ROPA 1983.

The Government is considering any need to amend the Bill to ensure that Ministers will in future be able to require the Electoral Commission to provide guidance to ROs on accessibility at local government elections. The Scottish Ministers already have the necessary powers to require the Electoral Commission to provide such guidance for Scottish Parliament elections and the proposed amendment will bring the position for local government election into line with existing position for Scottish Parliament elections.

### **Boundaries Scotland including attainer electoral data for Scottish Parliament and local government reviews**

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<sup>1</sup> See paragraph 3.57 of the [Explanatory Memorandum](#) to the Elections and Elected Bodies (Wales) Bill

Boundaries Scotland are required to conduct reviews of Scottish Parliament constituencies and regions, and reviews of electoral arrangements for local government.

Attainers (pre-registered voters aged 14-15) are considered names on the register for the purposes of conducting reviews of Scottish Parliament constituencies and regions (although are not considered electors until they reach voting age), and should therefore be included in Scottish Parliament reviews. Having access to attainer data would also aid with the five-year forecasting required for reviews of electoral arrangements for local government.

The Scottish Government proposes bringing forward legislation which will amend the relevant legislation to make clear that Boundaries Scotland should receive relevant attainer information when receiving the electoral register for conducting reviews. They currently are not listed in the [Scottish Elections \(Reduction of Voting Age\) Act 2015](#) as an organisation that can receive attainer information, despite there being legislation which suggests they should access this. This information will likely be restricted to addresses (including post codes) and numbers of attainers in each individual address for the purposes of carrying out their reviews under schedule 1 of the Scotland Act and part 2 of the 1973 Act. The names and ages of individual attainers will not be provided to Boundaries Scotland as they are not required for electoral quota purposes.

### **Uprate limits for campaign expenditure**

Expenditure limits for candidates, political parties and third parties at Scottish Parliament elections and for candidates at local government elections have not changed for some time.

Increases in line with inflation were recently made for UK Parliamentary elections by the [Representation of the People \(Variation of Election Expenses, Expenditure Limits and Donation etc. Thresholds\) Order 2023](#). The Government intends to consult the Scottish Parties Political Panel on a possible change.

### **Voter registration on local connection grounds for looked after children**

Currently certain individuals who do not have a fixed or permanent address, such as those that are homeless or in prison, may register at the place where they spend most of their time, or to which they have a connection, by making a declaration of local connection.

In Wales, an additional ground to make a declaration of local connection was added to [section 7B\(2\)](#) of ROPA 1983 by [paragraph 2 of schedule 2](#) to the Local Government and Elections (Wales) Act 2021. This allows for those under 18 years old if they are, or have been, looked after children or are currently being kept in secure accommodation to apply to vote using a declaration of local connection.

The Scottish Government is considering amending [section 7B\(2\)](#) of ROPA 1983 to specifically allow looked after children under the age of 18 to register to vote at Scottish Parliament and local government elections using a declaration of local connection. This amendment will be along similar lines to the similar change already made for Wales.



## **Evidence to support an application for anonymous registration**

If someone is concerned that having their name and address publicly available on the electoral register could endanger their safety, or the safety of someone in their household, they can register to vote anonymously. This means that they are still able to vote, but only their voter number, not their name and address, will appear on the electoral register. In addition, their electoral registration office will not disclose their details to anyone, unless they are legally required to.

An applicant for anonymous registration must provide evidence that there is a risk to safety, if their details were to be made public. The Scottish Government is intending to amend [regulation 311](#) of the Representation of the People (Scotland) Regulations 2001, as amended by subsequent legislation, to add Domestic Abuse Protection Orders to the list of relevant evidence for anonymous registration. We will also consider, in consultation with other UK legislatures, if there are any further changes that need to be made to take account of similar orders granted in other parts of the UK.

## **Emergency proxies for companions of individuals who have to attend for medical treatment**

The Electoral Commission has asked the Scottish Government to consider expanding the categories of voters who are entitled to apply for an emergency proxy to include those who find themselves unable to vote because they are in a position of acting as a companion for someone who needs to be accompanied to an unplanned medical appointment. In particular this would affect those who care for young or older people.

Under the existing provisions, the person with the medical appointment would be entitled to apply for a proxy vote, if they are registered to vote, however their companion is not able to apply for a proxy vote.

The Scottish Government intends to legislate for emergency proxies to be made available to the companions of those who are required to travel for medical appointments or treatment at short notice, where that travel would stop them being able to vote at their normal polling place. This will require an amendment to [paragraph 4 of schedule 4](#) to the Representation of the People Act 2000.

This policy change was discussed in the Electoral Reform [Consultation](#), and was supported by 61% of respondents, including 100% of organisations.

## **Emergency proxies for persons remanded in custody**

The [schedule](#) to the Scottish Elections (Franchise and Representation) Act 2020 made a number of amendments as a consequence of the granting of the right to vote to a person to whom [section 3\(1A\)](#) of ROPA 1983 (exception to disenfranchisement for offenders sentenced to term not exceeding 12 months) applies. One of these amendments allowed for offenders who are sentenced to term not exceeding 12 months shortly before the day of poll to apply for an emergency proxy vote. The intention of this provision was to ensure that someone who had not already applied for an absent vote would not be disenfranchised if they were sentenced to detention after the six-day deadline for applying for an ordinary proxy vote.



The introduction of this provision highlighted that individuals who are remanded in custody, who are still entitled to vote as they have not been found guilty of an offence, currently do not have the same ability to apply for an emergency proxy, if they are remanded after the six day deadline for applying for an ordinary proxy vote.

The option being considered would be to change the law to allow those remanded in custody shortly before the day of poll to apply for an emergency proxy vote.

### **Appointment of replacement proxies if a proxy voter is no longer able to vote on someone's behalf**

[Article 2\(4\)](#) of the Scottish Parliament (Elections etc.) Amendment (Coronavirus) Order 2021 allowed for a voter who had appointed a proxy to change their proxy if the proxy would not be able to vote in person, due to having to follow Scottish Government advice or the advice of a registered medical practitioner in relation to coronavirus. This article was covered by a sunset provision and subsequently ceased to have effect on 10 December 2022. The intention was to ensure that the voter would not lose their vote if their proxy was unable to vote due to coronavirus restrictions.

The Scottish Government is now considering provisions which will allow a voter, who has already appointed a proxy, to change their proxy if the proxy will no longer be able to vote on their behalf. The provision will be similar to [Article 2\(4\)](#) of the Scottish Parliament (Elections etc.) Amendment (Coronavirus) Order 2021. It is likely that any provisions will include a deadline of requesting a replacement proxy due to the practical arrangements that EROs are required to make, such as informing the proxy of their appointment and informing the Returning Officer and the relevant polling station staff of the updated proxy's details.

### **Limiting campaign free mailings to one per household**

The Scottish Government's electoral reform consultation sought views on restricting the current right to send a letter or leaflet free of postage costs to the sending of unaddressed leaflets only. This would mean that parties and candidates would only be allowed to send an unaddressed leaflet to every household.

78% of individuals and 70% of organisations were in favour of the proposal to limit mailings to one per household.

### **Extend free mailings to local government candidates**

Whilst allowing candidates at UK and Scottish Parliamentary elections to send a free mailing has been normal practice for many years, this facility has never been extended to candidates at local government elections. Over recent years, there has been a number of calls for local government candidates to be allowed to send a communication free of postage costs to voters.

In the Electoral Reform [Consultation](#), the Scottish Government sought views on whether free mailings should be extended to local government elections. Two specific questions were asked:

- Should free mailings be extended to candidates at local government elections?  
and
- Should any free mailing be limited to one leaflet per household?

All organisations who answered the first question supported the option of extending freepost communications to local election candidates. However, only one third (37%) of individuals were in favour. There was more consensus on the proposal to limit mailings to one per household, with 78% of individuals and 70% of organisations in favour.

Respondents were also asked for any comments on the general proposal and two broad themes were evident; opposition to freepost mailings as a waste of time and money, and debate around who should bear the cost of freepost mailings.

### **Increase the number of disabled voters who can be assisted by an individual companion**

Under the existing rules, [rule 48](#) of schedule 2 to the Scottish Parliament (Elections etc.) Order 2015 and [rule 35](#) of schedule 1 to the Scottish local government Elections Order 2011, an eligible individual can assist up to 2 people, who are disabled or unable to read to vote.

Individuals who help voters needing additional support in the polling station when casting their vote, are an important option for those who face such barriers. Help from a friend, relative or carer can be essential in overcoming issues like navigating the polling station or understanding a ballot paper.

The historical reasons for the restriction of only assisting 2 people, relates to concerns over the potential influence any one person might have on multiple voters. However, there may be circumstances where this restriction impedes the needs of voters themselves - for example multiple members of one family might need support but have only one relative available to assist. Professional carers may also be best placed to support their clients at the polling station, because of their understanding of their clients' individual needs, but would be prevented from supporting more than 2 clients and/or members of their own family under the current system.

The electoral reform [Consultation](#) asked if the number of voters a companion can support at Scottish Parliament and local government elections should be increased to 5.

Over three quarters (77%) of individual consultation respondents felt there should be no change to the two people per election who can be assisted by a companion. Among organisations, however, views were more mixed, with one third (33%) supporting an increase to five people, two fifths (42%) another number, and one quarter (25%) favouring the current guidelines.

The Scottish Government would also welcome thoughts on whether an individual, such as a registered care worker, who, as part of their employment at a particular care

home, should be allowed to assist a higher or unlimited number of voters who are resident at the care home where they are employed.

### **Standardise Dies-Non**

When calculating periods of time at both elections and for registration purposes, some days, such as Christmas Day, Good Friday and bank holidays are disregarded for timetable purposes. However, there is a disparity between those days which are disregarded, with Maundy Thursday being disregarded for registration purposes but not election purposes and Easter Monday being disregarded for election purposes but not registration purposes.

The Scottish Government would like to consider aligning the non-counting days so that they are the same for both election and registration purposes. However, we appreciate that changing the disregarded days for registration purposes for devolved elections will introduce a mismatch with the disregarded days for registration for UK Parliament elections.

Our intention is to have further talks with electoral administrators over any consequences such a change may have for both Returning Officers and Electoral Registration Officers before coming to a final decision on whether or not to bring forward proposals for the Parliament's consideration. However, we would welcome any comments that the Committee may have.

### **Next day counts at Scottish Parliament elections**

Electoral Administrators have raised concerns about the requirement in [rule 54 of schedule 2](#) to the Scottish Parliament (Elections etc.) Order 2015 that "The CRO shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll".

Electoral Administrators are concerned that, under the existing legislation, Returning Officers are effectively required to count the votes cast at Scottish Parliament elections overnight. This means that staff at the count start work shortly before the close of polls at 10pm and in some areas don't finish until after 7am the next morning, over a 9-hour shift. Returning Officers are concerned that it is difficult to recruit staff for long overnight counts and that tiredness can be a factor at counts with an increased risk of errors occurring. In particular this can affect senior election staff as they will have started work early on the Thursday morning, to ensure that the polling proceeds smoothly, and they may have little chance to rest and recover before the close of an overnight count, some 48 hours later.

Electoral administrators have suggested that if the count were to start on the Friday morning, after a Thursday poll, then it would be easier to employ staff who would be well rested and less likely to make mistakes. It would also allow senior staff the opportunity to get some rest and sleep between the close of poll and the start of the count.

Were the count to start on the Friday morning, it would be likely that the final result would be available mid-afternoon on the Friday, in time to catch the early evening news programmes, as there would be no delays in waiting for ballot boxes to be delivered and some preliminary preparation work could be completed following the

close of poll. It is possible that if there were to be no overall majority for a single political party, the delay in the announcement of the result could delay the formation of a government, however it is not thought that the additional delay from a next day count would be significant.

The count at Scottish local government elections starts on the Friday morning with the result being available on the Friday afternoon.

The Scottish Government does not have a settled view on this issue and would welcome the Committee's thoughts.

### **Delegate forms design to the Electoral Management Board's Forms Working Group**

Currently, the legislation for elections sets out what information must be included in forms, in addition, often, but not in all cases, templates for the forms are also included in an appendix. However, although templates are provided, [article 86\(1\)](#) of the Scottish Parliament (Elections etc.) Order 2015 specifically states "The forms set out in the Appendix may be used with such variations as the circumstances may require."

Having templates for forms set out in legislation can lead to delays if there is a need to update a form or to clarify some aspect. An example of this is [form 15](#) (Declaration by the companion of a voter with disabilities) in the Scottish Local Government Elections Order 2011, which contains a long standing error. The declaration on the template form requires the companion to certify that they have not helped any other elector with disabilities to vote, whilst rule 35(2)(b)(ii) clearly states that a companion can assist up to 2 voters.

The Scottish Government is considering removing some templates from the legislation to allow additional flexibility around their design and contents. It is expected that this flexibility will be used to include information which will be helpful to voters, such as additional information in poll cards on accessibility and what will be available at polling stations to assist voters.

Responsibility for designing forms for use by electoral administrators could then become the responsibility of the [Electoral Management Board's Forms Working Group](#) who already have a role in developing consistent and quality non-statutory forms. The Forms Working Group has been providing example forms for returning Officers for many years and the Scottish Government would view this as an extension of their existing role.

The intention is that templates for some forms would remain in legislation, such as ballot paper designs and nomination papers, but responsibility for others, such as Certificates of employment and information and guidance notices, would transfer to the Forms Working Group. The Scottish Government's view is that transferring the responsibility for designing templates for the forms used by Returning Officers to the Electoral Management Board's Forms Working Group would allow for more agile design and the opportunity for ROs to quickly adapt them for changing circumstances.

Discussions around this proposal are still ongoing with the Electoral Management Board and the Electoral Commission but the Scottish Government would welcome any views that the Committee may have on this proposal.

**Changes in the event of a rescheduled election: spending limits and implications for postal votes, electoral register etc.**

The Bill makes a range of provisions in relation to emergency re-scheduling of elections. The Government intends to discuss further with the Electoral Commission and political parties on the merits of rules adjusting spending limits in the event of a postponement to an election. It is also considering possible other secondary legislation that might be needed in the event of a postponement (e.g. on the status of postal votes or implications of a delay for the electoral register), noting comments by the [Scottish Assessors Association](#).

**Use of electoral registers for the setting up of Community Councils**

Under [regulation 106](#) of the Representation of the People (Scotland) Regulations 2001, local councils are entitled to receive a copy of electoral registers for their area. However, use of those registers is restricted to the discharge of a statutory function of the council relating to security, law enforcement, crime prevention, the holding of local referendums or for statistical purposes. In addition, under this regulation, once established, local Community Councils are also entitled to receive a copy of the electoral register.

It has been raised with the Scottish Government that where a new Community Council is proposed, Councils are not allowed to use the electoral register to identify which electors are resident in the proposed Community Council area, in order to establish a Community Council in the first place. This is because the setting up of community councils is not one of the permitted uses allowed by [regulation 106](#).

The Scottish Government is therefore considering amending regulation 106 in order to specifically permit the use of the electoral register for the purposes of establishing a Community Council.

**ANNEXE D: LETTER FROM THE MINISTER FOR PARLIAMENTARY BUSINESS  
TO THE CONVENER OF THE ELECTORAL MANAGEMENT BOARD FOR  
SCOTLAND – 24 JUNE 2025**

**TIMING OF THE SCOTTISH PARLIAMENT ELECTION COUNT**

Thank you for your letter of 30 April and for our discussion on the question of the timing of the count for next year's Scottish Parliament election.

You will recall that my predecessor first raised this issue as a point for discussion in his letter of 30 April 2024 on possible secondary changes to electoral law<sup>2</sup>. I also included it in my own letter inviting views on possible secondary legislation changes on 16 July 2024<sup>3</sup>.

I am grateful to the EMB for seeking the views of Returning Officers on this matter and for the helpful context you have provided in our discussions. You highlighted that 26 of Scotland's 32 Returning Officers, including 7 of the 8 Regional Returning Officers, had concluded that holding the count on the day after polling would reduce risk. You also nonetheless provided full assurance that Returning Officers stood ready to again declare accurate results in which voters can have full confidence, whenever the count occurs.

I very much appreciate the points identified around the complexity of counting ballots for the Scottish Parliament election and the challenges that an overnight count poses for staff welfare, staff availability, and the overall resilience of our system.

As I indicated in our discussions, my own personal preference has always been inclined towards holding counts overnight. But I also made clear that I wanted to hear the views of the electoral community and others. As a result, I have concluded against seeking to make any specific provision on count timing in the Conduct Order for next year's election, which I expect to lay before the Scottish Parliament before summer recess. I think that it is preferable to rely on the expertise of the electoral community on this matter and your judgment as Convener of the Board.

With that said, I should highlight the concern we discussed about any variation in practice between overnight and next day counts across the country. A difference in practice across the country could be confusing for the public. If any change from established practice is to occur then I would expect the EMB and ROs to take appropriate steps to ensure the change was fully communicated, explaining the rationale for any approach to candidates and the public at large.

I have copied this letter to the Standards, Procedures and Public Appointments Committee of the Scottish Parliament and to the Scottish Parliament Political Parties Panel.

**JAMIE HEPBURN**

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<sup>2</sup> [letter-from-the-minister-for-parliamentary-business-dated-30-april-2024.pdf](#)

<sup>3</sup> [Letter from the Minister for Parliamentary Business dated 16 July 2024](#)