

Standards, Procedures and Public Appointments Committee
Thursday 2 October 2025
17th Meeting, 2025 (Session 6)

Note by the Clerk on subordinate legislation relating to dual mandates

Overview

1. At this meeting, the Committee will take evidence from the Minister for Parliamentary Business and Veterans on three SSIs making provision to end the holding of dual mandates by MSPs.
2. More information about the instruments is summarised below:

Titles of instruments:

- [Scottish Parliament \(Disqualification of Members of the House of Commons\) Regulations 2025](#) [draft]
- [Scottish Parliament \(Disqualification of Members of the House of Lords\) Regulations 2025](#) [draft]
- [Scottish Parliament \(Disqualification of Councillors\) Regulations 2025](#) [draft]

Laid under: The Scottish Elections (Representation and Reform) Act 2025

Laid on: 2 September 2025

Procedure: Affirmative

Lead committee to report by: 27 October 2025

Commencement: If approved, the instruments come into force on the day after the day on which it is made. Each instrument sets out that the provisions relating to disqualification do not have effect until the day of the poll at the first general election for membership of the Scottish Parliament held after the coming into force of the Regulations.

Procedure

3. 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.
4. 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.

5. 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.
6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument.

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instruments on Tuesday 16 September and report on the instrument. No points were raised on the Orders relating to the House of Lords or to Councillors. In relation to the Order relating to membership of the House of Commons, the DPLR Committee asked the Scottish Government for clarification on the drafting of provisions intended to prevent an MSP who is also an MP from receiving an MSP salary.
9. The questions asked by the DPLR Committee related to “whether the formulation “The Parliament is to make no payment” is sufficiently accurate, given the contrast with the wording of section 81(1) of the Act, under which the Parliament does not itself make the payment of salaries but rather “make[s] provision for the payment” (for example by making provision for this to be done by the Scottish Parliamentary Corporate Body under section 81(5)).” The Scottish Government indicated that it considers the drafting to be sufficiently accurate. In its report, the DPLR Committee states that it:

“agrees that the provision should achieve the desired legal effect because it specifies “in accordance with section 81(1)”. However, given that this is an amendment to a constitutional Act, the Committee considers it desirable for the provision to be as accurate as possible and to be as consistent as possible with the other provisions of the Act.”
10. The DPLR Committee drew the attention of the Committee to the Regulations on the general reporting ground that on the basis that the “wording of new subsection (2A), to be inserted by regulation 5(c) of the draft instrument into section 82 of the Scotland Act 1998, could be more consistent with the provision in sections 81 and 82 of the Act.”

Purpose of the instrument

Background

11. At Stage 2 of the Scottish Elections (Representation and Reform) Bill, Graham Simpson MSP lodged amendments that would have provided for the prohibition of 'dual mandates' – that is someone who is an MSP also holding office as Member of the House of Commons, House of Lords or as a local authority councillor in Scotland. Following debate, Graham Simpson MSP did not move those amendments. Following discussions, further amendments were lodged at Stage 3 which would enable Regulations to be made to end the holding of dual mandates. These amendments required Scottish Ministers to make Regulations relating to Members of the House of Commons and of the House of Lords and to give a discretionary power to also make Regulations relating to local authority councillors in Scotland.
12. Following the Parliament's agreement to the Bill, the Scottish Government undertook a [consultation on dual mandates](#) from 20 January 2025 to 23 March 2025. The consultation sought views on:
 - The principle of ending dual mandates
 - Any grace period which a person elected as a MSP should be given to leave another office
 - Whether there should be any limitation of an individual's salary for the duration of any grace period
 - Whether there should be any limits on an individual's participation in proceedings of the Scottish Parliament for the duration of any grace period
 - Whether there should be any withdrawal of the right and privileges of an MSP holding a dual mandate for the duration of any grace period.
 - In relation to members of the House of Lords, the consultation also asked whether a Member of that House who is on a leave of absence should be permitted to be an MSP.
13. The [analysis of the Scottish Government's consultation](#) was published on 25 June 2025. [Consultation responses](#) have also been published (where permission to do so was given).
14. Two roundtable events were also held with political parties and relevant stakeholders in April and May 2025.
15. The Committee took evidence from the then Minister for Parliamentary Business on the issue of dual mandates at its [meeting on 12 June 2025](#).

Provisions made by the Regulations

16. In summary, the Regulations provide:
 - For the ending of dual mandates to be held by Members of the Scottish Parliament

- Provide time-limited exceptions (grace periods) during which someone who is an MSP is not disqualified. This period is 49 days for Members of the House of Commons and 14 days for Members of the House of Lords. For MSPs who are councillors, the Regulations provide for an exception where the next scheduled local government election is due to occur within 372 days of the election at which the councillor was returned as an MSP, reflecting the current cycle where local government elections take place in the year following a Scottish Parliament election. If an MSP is elected and there is more than 373 days until the next scheduled local government election, the grace period is 49 days.
 - Propose the introduction of salary limitations which would:
 - require the Scottish Parliament to deduct from the person's MSP salary the basic rate of a Councillor's salary
 - amend the Scotland Act 1998 to ensure an MSP does not receive an MSP salary for the period in which they are also entitled to an MP salary.
17. No salary limitation is proposed in relation to Members of the House of Lords. This is intended to reflect that most Members of the House of Lords do not receive a salary but are instead entitled to a daily rate for attendance.
18. The Regulations do not propose any limitation to participation in the proceedings of the Parliament or in relation to the rights and privileges of an MSP during any grace period.
19. The policy notes for each of the instruments are included at Annexe A to this note.

Conclusion

20. The Committee is invited to take evidence from the Minister and to consider whether to recommend to the Parliament that the Regulations be approved.

Clerks to the Committee
September 2025

Annexe A: Scottish Government Policy Notes

POLICY NOTE

THE SCOTTISH PARLIAMENT (DISQUALIFICATION OF COUNCILLORS) REGULATIONS 2025 SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by section 5(1) and (2) and 72(1) of the Scottish Elections (Representation and Reform) Act 2025. The instrument is subject to affirmative procedure.

Summary Box

The instrument modifies the Scotland Act 1998 such that an individual is disqualified from being an MSP if they also hold a role as a Councillor. This is subject to time-limited exceptions provided in the instrument. The instrument also provides for the limitation of the salary of an MSP during the exception period in which they are also a councillor.

Policy Objectives

The instrument modifies the Scotland Act 1998 to disqualify a person from holding the role of MSP if they are also a Councillor elected to a Scottish Council. The disqualification only applies to MSPs and does not separately disqualify a person from their councillor role, to create consistency with the provisions of the Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 and the Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025.

An exception to the disqualification is provided where the next scheduled local government election is due to occur within 372 days of the election at which the Councillor was returned as an MSP, as the current electoral cycle usually sees the Scottish Parliament ordinary elections take place one year before the local government ordinary elections. The exception lasts from the date on which the person is returned as an MSP until the next local government ordinary elections. The exception recognises that the current cycle often sees a substantial cohort of new MSPs still holding Councillor roles when elected, for example there were 18 councillors who became MSPs in the 2021 Scottish Parliament election. At present, most opt to retain their Councillor role until their term ends to avoid creating a vacancy. Noticeable numbers of vacancies arising one year before a scheduled local government ordinary election can reduce representation for a number of months and can see a new Councillor appointed for a short period of less than 1 year before the next local government ordinary elections. These by-elections could also incur significant costs to the public purse.

Where a Councillor is returned as an MSP with 373 days or more until the next local government election, the instrument provides for an alternate period of exception of 49 days in which the person is not disqualified. Disqualification as an MSP occurs at the end of this period if the person is still a Councillor at that time. This is intended to ensure the individual has the opportunity to take steps to resolve their dual mandate, by leaving their role as a Councillor and continue in their MSP role or vice versa.

The period of 49 days will help to ensure that the person can finalise any current constituency business before leaving their role as a Councillor or MSP. It also seeks to limit which vacancies arise directly after an election in May. Instead, the 49 day period of exception (if used in full) means vacancies will arise in the middle of June after ordinary May elections.

Given a by-election must be held with 3 months of a vacancy arising, this makes a byelection less likely to fall over July and August. By-elections taking place in this period are known to be difficult as there are issues for voters and administrators due to the typical school summer holiday period covering these months.

The Regulations do not legislate to restrict or limit an MSP's ability to take part in parliamentary proceedings during this period of exception. This reflects the negative impact this may have on the Scottish Parliament's ability to continue to progress business. Similarly, no limitations on an individual accessing MSP rights and privileges (such as staff costs, office costs and other allowances) have been included in the regulations as this is likely to limit an individual's ability to conduct their role and properly represent their constituents.

To create broad consistency with the approach in the Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025, these Regulations require the Scottish Parliament to deduct from the person's MSP salary the basic rate of a Councillor's salary. This prevents the person from receiving two full salaries during the period of exception. This provision only covers basic MSP and Councillor pay to ensure that additional roles which receive an additional salary still attract MSPs to them, including the role of Presiding Officer, Deputy Presiding Officer, Ministerial or Law Officer roles. This is intended to avoid a scenario in which taking on such roles becomes disincentivised through a lack of remuneration for them. Similarly, the use of basic pay for Councillors ensures that roles with additional responsibilities which attract additional pay are not disincentivised through the lack of remuneration.

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

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 (Disqualification of Members of the House of Commons) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

A public consultation took place from 20 January 2025 to 23 March 2025, seeking views on the principles and practical issues of ending dual mandates. In addition,

two roundtables were held with political parties and relevant stakeholders in April and May 2025.

As a result of that consultation and engagement the following general themes emerged:

- There was strong support for changing the law to prohibit an MSP from being a councillor at the same time as being an MSP. The most common reason cited in favour of ending dual mandates in this scenario was that each role should be considered a full-time commitment, followed by logistical concerns such as travel and scheduling conflicts, and ethical issues like conflicts of interest, e.g. between local and national priorities.
- While there was strong support for addressing the issue, the potential administrative burdens and associated costs of a large number of by-elections was raised by some during the consultation and engagement period. Those who were against legislating to address this issue in response to the public consultation tended to cite transitional, logistical, electoral timing and associated financial reasons, including the costs of running by-elections, as the rationale for their opposition.
- The majority of respondents thought that there should be some length of period of exception. While almost 4 in 10 respondents suggested there should be no period of exception, among those who thought that there should be a period of exception, there was slightly more support for a period of exception lasting until the next council elections in order to avoid issues relating to the scheduling and cost of council by-elections.
- On salary limitations, the common theme was a strong preference for salary limitations, reflecting widespread concerns about fairness and appropriate use of public funds, and that holding dual roles should not result in financial advantage. A small number of respondents highlighted that it was already usual practice for MSPs dual-mandating as councillors to donate the council salary to local charities, but that this could be 'encouraged' or 'made clearer' in the interests of fairness. 1 in 10 responses to the public consultation were in favour of individuals receiving full remuneration from both positions during any period of exception.
- Just over a third of respondents favoured no restrictions on participation during a period of exception. Those in favour of full participation argued that MSPs should be able to represent constituents fully until they officially leave one of the roles. It was also noted that equal rights of all MSPs should be maintained during any period of exception and the need to avoid creating "two tiers" of MSPs.
- Around one in five respondents to the public consultation thought that all rights and privileges should be kept for the duration of the period of exception to ensure they can conduct their MSP role in full.

A full list of those who responded to the consultation and who agreed to the release of their name or response is available on the Scottish Government's consultation platform¹, respondents include:

- Aberdeen City Council
- Dumfries and Galloway Council
- South Lanarkshire Council
- The Electoral Management Board for Scotland
- Law Society of Scotland
- The Electoral Commission
- Scottish Conservative and Unionist Party
- Scottish Green Party
- Scottish National Party

The Scottish Government's analysis of the responses is available on the Scottish Government website².

Impact Assessments

An EQIA and a CRWIA have been completed on the Scottish Parliament (Disqualification of Councillors) Regulations 2025.

Further impact assessments have not been produced given the limited focus of these regulations.

Financial Effects

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.

At present, the practice of holding an MSP role and a Councillor role simultaneously is common in the year between a Scottish Parliament election and a local government election. Given the regulations include an exception from disqualification for this period to set an expectation that an individual can retain two roles until this point, very few by-elections would be expected to occur in the period immediately after a Scottish Parliament election. In the event that a by-election does occur, the latest published cost estimate of a local government by-election is between £50,000 and £80,000.

It is much less common for an MSP to subsequently seek election to local government. However, if this was to occur then the latest cost estimate of a Scottish Parliament by-election is in the region of £290,000 to £340,000. If the individual was a regional MSP, no by-election would be required.

Scottish Government

¹ <https://consult.gov.scot/communications-and-ministerial-support/dual-mandates-in-the-scottish-parliament/>

² <https://www.gov.scot/publications/dual-mandates-scottish-parliament-analysis-responses-consultation/>

SPPA/S6/25/17/1

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2 September 2025**

POLICY NOTE

THE SCOTTISH PARLIAMENT (DISQUALIFICATION OF MEMBERS OF THE HOUSE OF COMMONS) REGULATIONS 2025 SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by section 3(1) and (2) of the Scottish Elections (Representation and Reform) Act 2025. The instrument is subject to affirmative procedure.

Summary Box

The instrument modifies the Scotland Act 1998 such that an individual is disqualified from being an MSP if they also hold a role as a Member of the House of Commons (an “MP”). This is subject to time-limited exceptions provided in the instrument. The instrument also provides for the limitation of the salary of an MSP during the exception period in which they are also an MP.

Policy Objectives

The instrument fulfils the legal requirement of Scottish Ministers under section 3(1) of the Scottish Elections (Representation and Reform) Act 2025 by modifying the Scotland Act 1998 to disqualify a person from being an MSP if they are also a Member of the House of Commons. The disqualification only applies to MSPs, as Scottish Ministers do not have the relevant powers to disqualify or remove someone from the House of Commons.

The instrument provides for a period of exception of 49 days in which the person is not disqualified. Disqualification as an MSP occurs at the end of this period if the person is still an MP at that time. This is intended to ensure the person has the opportunity to take steps to resolve their dual mandate by leaving their MP role to enable them to continue in their MSP role or vice versa.

The period of 49 days will help to ensure that the person can finalise any current constituency business before leaving their role as an MP or MSP. It also seeks to limit vacancies which arise directly after an election in May. Instead, the period of exception (if used in full) means that vacancies will arise in the middle of June after ordinary May elections. Given byelections must be held within 3 months of a vacancy arising, this makes a by-election less likely to fall over July and August.. By-elections taking place in this period are known to be difficult as there are issues for voters and administrators due to the typical school summer holiday period covering these months.

The Regulations do not include any limit or restriction on an MSP’s ability to take part in parliamentary proceedings during the period of exception. This reflects the negative impact this may have on the Scottish Parliament’s ability to continue to progress business if one or more MSPs cannot participate for up to 49 days. Similarly, no limitations on an individual accessing MSP rights and privileges (such as staff costs, office costs and other allowances) have been included in the Regulations as this is likely to limit an individual’s ability to conduct their role and properly represent their constituents.

At present, the Scottish Parliament reduces an MSP's salary by two thirds if they are also an MP at the same time. This is in line with Section 82 of the Scotland Act 1998, which requires the Scottish Parliament to limit an MSP's salary if the individual is also receiving a salary as an MP. These Regulations amend the Scotland Act 1998 to ensure an MSP does not receive an MSP salary for the period in which they are also entitled to an MP salary. This provision only covers basic MSP pay to ensure that additional roles which receive an additional salary still attract MSPs to them, including the role of Presiding Officer, Deputy Presiding Officer, Ministerial or Law Officer roles. This is intended to avoid a scenario in which taking on such roles becomes disincentivised through a lack of remuneration for them.

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

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 (Disqualification of Members of the House of Commons) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

The Scottish Government conducted a public consultation from 20 January 2025 to 23 March 2025, seeking views on the principles and practical issues of ending dual mandates. In addition, two roundtables were held with political parties and relevant stakeholders in April and May 2025.

As a result of that consultation and engagement the following general themes emerged:

- There was strong support for disqualifying MSPs who are also MPs, with the most common reason cited being that each role should be considered a full-time commitment, followed by logistical concerns such as travel and scheduling conflicts, and ethical issues like conflicts of interest.
- A small minority disagreed with disqualification, supporting dual mandates for a limited period, primarily for transitional, logistical and associated financial reasons including the costs of running by-elections.
- The majority of respondents (7 in 10) to the public consultation thought that there should be some length of period of exception.
- There were varied views on limiting salaries for MSPs holding dual mandates during any period of exception. While views varied, the common theme was a strong preference for salary limitations. Most respondents stated that the

elected representative should only be allowed to receive a single salary. Some respondents suggested the retention of the higher of the two salaries, while around half suggested it should be the original salary that ceased upon election to the Scottish Parliament.

- Just over 4 in 10 respondents favoured no restrictions on participation during a period of exception. Those in favour of full participation argued that MSPs should be able to represent constituents fully until they officially leave one of the roles. It was also noted that equal rights of all MSPs should be maintained during any period of exception and the need to avoid creating “two tiers” of MSPs .
- One in five respondents to the public consultation thought that all rights and privileges should be kept for the duration of the period of exception to ensure they can conduct their MSP role in full.

A full list of those who responded to the consultation and who agreed to the release of their name or response is available on the Scottish Government’s consultation platform¹, respondents include:

- Aberdeen City Council
- Dumfries and Galloway Council
- South Lanarkshire Council
- The Electoral Management Board for Scotland
- Law Society of Scotland
- The Electoral Commission
- Scottish Conservative and Unionist Party
- Scottish Green Party
- Scottish National Party

The Scottish Government’s analysis of the responses is available on the Scottish Government website².

Impact Assessments

An EQIA and a CRWIA have been completed for the Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025.

Further impact assessments have not been produced given the limited focus of these Regulations.

Financial Effects

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.

¹ <https://consult.gov.scot/communications-and-ministerial-support/dual-mandates-in-the-scottish-parliament/>

² <https://www.gov.scot/publications/dual-mandates-scottish-parliament-analysis-responses-consultation/>

At present, the practice of holding an MSP role and an MP role simultaneously is limited in practice and there is not expected to be a significant number of individuals captured by the provisions, based on previous data. If an MSP was subsequently elected to the House of Commons and opted to leave or be disqualified from their MSP role, the latest cost estimate of a by-election is in the region of £290,000 to £340,000. Looking at historic examples, these Regulations would have caused no MSP by-elections during Session 6 or Session 5 of the Scottish Parliament and could have caused 1 by-election during Session 4 of the Scottish Parliament, if they had been in place at the time. While no by-elections would have occurred during Session 5, two regional MSPs would have faced disqualification after being elected as MPs later in the Session, if these provisions existed at the time, but each would have been replaced by the next member on the regional list³.

The Scottish Government does not hold figures for the cost of a House of Commons byelection in the event that an MP is subsequently elected as an MSP and opts to resign from their MP role to pursue their new MSP position. Looking at historic examples, these Regulations could have caused 1 MP by-election at the start of Session 6⁴ of the Scottish Parliament and no MP by-elections at the start of Session 5 or Session 4 of the Scottish Parliament, if they had been in place at the time.

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³ The two existing MPs who were subsequently elected as MPs in 2017 both resigned from their MSP role within a week of the UK General Election

⁴ Douglas Ross MSP was MP for Moray until 30 May 2024 (dissolution of the House of Commons prior to the UK General election on 4 July 2024).

POLICY NOTE

THE SCOTTISH PARLIAMENT (DISQUALIFICATION OF MEMBERS OF THE HOUSE OF LORDS) REGULATIONS 2025 SSI 2025/XXX

The above instrument was made in exercise of the powers conferred by section 4(1) and (2) of the Scottish Elections (Representation and Reform) Act 2025. The instrument is subject to affirmative procedure.

Summary Box

The instrument modifies the Scotland Act 1998 such that an individual is disqualified from being an MSP if they are also a Member of the House of Lords. This is subject to time limited exceptions provided in the instrument.

Policy Objectives

The instrument fulfils the legal requirement of Scottish Ministers under section 4(1) of the Scottish Elections (Representation and Reform) Act 2025 by modifying the Scotland Act 1998 to disqualify a person from being an MSP if they are also a Member of the House of Lords. The disqualification only applies to MSPs, as Scottish Ministers do not have the relevant powers to remove or disqualify someone from the House of Lords.

The instrument provides for a period of exception of 14 days in which the person is not disqualified. Disqualification as an MSP occurs at the end of this period if the person is still a member of the House of Lords at that time. This is intended to ensure the person has the opportunity to take steps to resolve their dual mandate by resigning from the House of Lords to enable them to continue in their MSP role, if they wish to do so, or vice versa.

The period of 14 days ensures time is available for the practical steps of resigning to be taken forward. This grace period is shorter than the period proposed for MSPs who are also MPs, as Members of the House of Lords do not have constituents to serve in the same way that MPs do. Members of the House of Lords are able to resign under section 1 of the House of Lords Reform Act 2014 and may specify a date on which that resignation takes effect. Where the King has signified his intention to confer a peerage on a current MSP, there is a degree of flexibility in the date on which the new member is introduced to the House and takes the oath, which would begin the 14 day period of exception. The Regulations do not include any limitation or restriction on an MSP's ability to take part in parliamentary proceedings during the period of exception. This reflects the negative impact this may have on the Scottish Parliament's ability to continue to progress business. Similarly, no limitations on an individual accessing MSP rights and privileges (such as staff costs, office costs and other allowances) have been included in the Regulations as this is likely to limit an individual's ability to conduct their role and properly represent their constituents.

At present, the majority of members of the House of Lords are not salaried and, instead, have the ability to claim allowances in relation to attending the House of Lords including a day rate for attendance. This creates a very varied picture in terms of remuneration of Peers.

As a result, the Regulations do not introduce any new legislative salary reductions for MSPs who are also members of the House of Lords as doing so could create a scenario in which an individual is not receiving a salary for either of their roles. Where an MSP who is a member of the House of Lords is salaried in their Lords role (e.g. as a government minister), section 82 of the Scotland Act 1998 will continue to require that Parliament must reduce their MSP salary by an amount to be decided by the Parliament.

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

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 (Disqualification of Members of the House of Commons) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

A public consultation took place from 20 January 2025 to 23 March 2025, seeking views on the principles and practical issues of ending dual mandates. In addition, two roundtables were held with political parties and relevant stakeholders in April and May 2025.

As a result of that consultation and engagement the following general themes emerged:

- There was strong support for disqualifying Peers from being MSPs, with the most common reason cited being that each role should be considered a full-time commitment, followed by logistical concerns such as travel and scheduling conflicts, and ethical issues like conflicts of interest.
- There was more of a split in opinion on the question of whether a Peer who is on a leave of absence should be permitted to be an MSP. While a majority of respondents (48 of the 74) thought that they should not be allowed to be MSPs, almost three in ten (21 of 74) thought that they should be. The issue of soft power and the ability to influence despite being on a leave of absence was raised with the Scottish Government during our consultation and engagement.
- A slight majority of respondents to the public consultation did not think there should be any period of exception, often noting the unelected nature of the House of Lords and therefore the absence of practical transition issues in terms of by-elections and constituency caseload. Among the 4 in 10 respondents who did support a period of exception for Peers almost all favoured a period of 6 months or less.

- There were varied views on limiting salaries of MSPs holding dual mandates during a period of exception. Around 1 in 5 of those providing a view in response to the consultation stated that elected representatives in this position should receive one salary only / no remuneration from the 'second' job, and just under 1 in 5 thought that salaries should be limited or capped. Around 1 in 10 respondents stated that they should receive full remuneration from both positions, provided the period of exception is short.
- Fewer than 1 in 5 respondents to the public consultation said there should be no restrictions on participation for MSP/Peer dual mandates but those in favour of full participation argued that MSPs should be able to represent constituents fully until they officially leave one of the roles.
- Views varied in regard to access to rights and privileges during a period of exception in response to the public consultation, with many opting to express that a period of exception should not exist for Peers. Some acknowledged that full rights and privileges should be available, particularly if the period of exception is kept short.

A full list of those who responded to the consultation and who agreed to the release of their name or response is available on the Scottish Government's consultation platform⁷, respondents include:

- Aberdeen City Council
- Dumfries and Galloway Council
- South Lanarkshire Council
- The Electoral Management Board for Scotland
- Law Society of Scotland
- The Electoral Commission
- Scottish Conservative and Unionist Party
- Scottish Green Party
- Scottish National Party

The Scottish Government's analysis of the responses is available on the Scottish Government website⁸.

Impact Assessments

An EQIA and CRWIA have been completed on the Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025.

Further impact assessments have not been produced given the limited focus of these Regulations.

Financial Effects

⁷ <https://consult.gov.scot/communications-and-ministerial-support/dual-mandates-in-the-scottish-parliament/>

⁸ <https://www.gov.scot/publications/dual-mandates-scottish-parliament-analysis-responses-consultation/>

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.

At present, the practice of holding an MSP role and being a Member of the House of Lords simultaneously is limited in practice and there is not expected to be a significant number on individuals captured by the provisions, based on previous data. If a constituency MSP subsequently joined the House of Lords and opted to leave or be disqualified from their MSP role, the latest cost estimate of a by-election is in the region of £290,000 to £340,000. If a regional list MSP subsequently took up membership of the House of Lords, no by-election would occur as the next name on the regional list would be appointed upon resignation. This was the case during Session 6 of the Scottish Parliament, when Donald Cameron MSP left his MSP role to become a Peer in 2024. He was replaced by Tim Eagle MSP as the new MSP for the Highlands and Islands region.

In the event that a Member of the House of Lords is subsequently elected as an MSP and opts to pursue their new MSP position instead of their role in the House of Lords, no by-election would occur, so no costs are anticipated.

Scottish Government

Communications and Ministerial Support Directorate

2 September 2025