

Standards, Procedures and Public Appointments Committee
Thursday 6 November 2025
20th Meeting, 2025 (Session 6)

Note by the Clerk on subordinate legislation relating to absent voting

Overview

1. At this meeting, the Committee will take evidence from the Minister for Parliamentary Business and Veterans on two SSIs making provision in relation to absent voting and disapplying the requirement in law for Electoral Registration Officers to send a notice requesting a fresh signature from persons entitled to vote by post or by proxy at whose signature on record is more than 5 years old.
2. More information about the instruments is summarised below:

Title of instrument:

- Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 (SSI/2025/263)

Laid under: The Local Electoral Administration and Registration Services (Scotland) Act 2006

Laid on: 22 September 2025

Procedure: Negative

Lead committee to report by: 10 November 2025

Commencement: 1 December 2025

Title of instrument:

- Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 [draft]

Laid under: The Local Governance (Scotland) Act 2004 and the Scotland Act 1998

Laid on: 22 September 2025

Procedure: Affirmative

Lead committee to report by: 16 November 2025

Commencement: 1 December 2025

Procedure

3. The Committee will consider two instruments today. One is subject to the negative procedure, and one is subject to the affirmative procedure.
4. Once laid, an 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. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
6. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
7. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.
8. 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.
9. 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.
10. 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.
11. 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

12. The Delegated Powers and Law Reform (DPLR) Committee considered the instruments on Tuesday 16 September and report on the instrument. The DPLR

Committee agreed to draw the attention of the Committee to its [correspondence with the Scottish Government](#) but did not raise any points on the instruments.

Purpose of the instruments

13. The Committee has previously considered an LCM in relation to the Absent Voting (Elections in Scotland and Wales) Act 2025 which would enable access to the Online Absent Voting Application in relation to Scottish Parliament elections and local authority elections in Scotland.
14. In evidence to the Committee on 18 September 2025, the then Minister for Parliamentary Business:

“highlighted that serious concerns had been raised about a go-live for the system occurring before May next year. I am happy to discuss that point further today, if you are inclined to do so, convener, and I made that point in my letter. However, I want to let the committee know that I have already set in motion a mitigation measure, which is set out in statutory instruments that will be laid on Monday, to delay until the end of 2026 any signature refresh for absent votes that are required before the election in May. That measure should reduce any scope for confusion between the online absent vote application system for UK Parliament elections and the separate process for Scottish Parliament elections.”
15. The instruments being considered by the Committee today constitute the mitigation measure referred to above.
16. The policy notes for each of the instruments are included at Annexe A to this note. An update from the Minister in relation to the Absent Voting (Elections in Scotland and Wales) Act 2025 is provided at Annexe B.

Conclusion

17. The Committee is invited to take evidence from the Minister and to consider whether:
 - It wishes to make any recommendation in relation to the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 (SSI/2025/263), and
 - to recommend to the Parliament that the Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 be approved.

Clerks to the Committee
November 2025

Annexe A: Scottish Government Policy Notes

POLICY NOTE

THE REPRESENTATION OF THE PEOPLE (ABSENT VOTING AT LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2025

SSI 2025/263

This instrument was made in exercise of the powers conferred by sections 22(3) and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 and all other powers enabling them to do so. The instrument is subject to negative parliamentary procedure.

Summary Box

Where a voter with a postal or proxy vote's signature held on record is more than 5 years old and the voter does not provide a fresh signature sample to their Electoral Registration Officer (ERO) when requested, proxy or postal voting arrangements (called 'absent voting') come to an end. These Regulations apply to absent votes granted for an indefinite period or a period in excess of 5 years, where a new signature sample is due to be requested before 7 May 2026. The regulations/order disapply the requirement on the ERO to request a fresh signature by 7 May 2026. The effect of this is that these absent votes will continue in the absence of a fresh signature in 2026 with the next signature refresh being required by 31 January 2027.

Policy Objectives

Background

For Scottish Parliament elections and council elections, voters can have a postal or proxy vote for an indefinite or an extended period, but their local Electoral Registration Office will contact them to refresh their signature sample every five years. If a fresh signature sample is not provided, then the absent voting arrangement will cease (note that there are special arrangements if a person is unable to provide a signature sample).

An estimated 75,000 voters are due to be asked before the 7 May 2026 election to refresh their signature sample in order to retain a continuing absent vote for Scottish Parliament and Scottish local government elections. This is currently a paper-based process. If a new signature sample is not provided, the absent vote will cease.

At the same time, between 750,000 and 800,000 UK Parliament postal votes for voters in Scotland are due to expire on 31 January 2026 if not renewed. These voters can either apply using a paper form¹ for all elections or for UK Parliament elections only using the Online Absent Voting Application portal (OAVA).

¹ For example: https://www.electoralcommission.org.uk/sites/default/files/2025-08/POS_PostalScotland2025_form.pdf

There is concern that many of the voters due to refresh their signature for Scottish Parliament and local elections may incorrectly think that a reapplication via OAVA for a UK Parliament absent vote was the only activity required to vote by post or proxy in the Scottish Parliament election on 7 May 2026.

This Order (and the closely related Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025) seek to alleviate this issue by disapplying the requirement in law for Electoral Registration Officers to send a notice requesting a fresh signature from persons entitled to vote by post or by proxy at whose signature on record is more than 5 years old. This requirement is temporarily disappplied where the notice would otherwise require to be sent by 31 January 2026. The registration officer will instead be required to send the notice by 31 January 2027. It is hoped that this will reduce scope for voter confusion and the potential for people having to suddenly seek an absent vote in spring 2026. It will also save voters from providing a new signature sample before the election.

A very similar approach - of extending extant postal (but not proxy) votes - was applied by the UK Government ahead of the 2024 UK Parliament General Election. It extended postal votes due for a signature refresh over 2023-25 to 31 January 2026². The UK Government at that time sought to bring certain indefinite proxy votes to an end as part of the transition to the OAVA system³.

Although the Scottish Government is actively pursuing application of the OAVA system to Scottish Parliament and local government elections, it is considered that application of these Regulations to all absent voters held on an indefinite or extended period would be helpful to voters ahead of the May 2026 election.

Further detail on plans in relation to OAVA is available in the Scottish Government's Legislative Consent Memorandum to the Absent Voting (Elections in Scotland and Wales) Bill.⁴

The Regulations

These Regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 ("the 2007 Regulations"). The 2007 Regulations apply where a postal or proxy vote is being or has been sought in respect solely of local government elections in Scotland or of a particular local government election in Scotland. Regulation 15A applies in relation to absent votes for an indefinite or particular period (where that period is in excess of 5 years).

A separate instrument, the Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 makes

² See the comments by Lord Mott in the House of Lords on 19 September 2023: <https://hansard.parliament.uk/Lords/2023-09-19/debates/237A7553-A492-416B-9AA1-979158DEFCE2/RepresentationOfThePeople%28PostalAndProxyVotingEtc%29%28Amendment%29Regulations2023>

³ See the Explanatory Note to the Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2023: https://www.legislation.gov.uk/ukxi/2023/1147/pdfs/ukxiem_20231147_en_001.pdf

⁴ <https://www.parliament.scot/bills-and-laws/legislative-consent-memorandums/absent-voting-elections-in-scotland-and-wales-bill>

similar provision in relation to absent votes for an indefinite or particular period in respect of Scottish Parliament elections and where a postal or proxy vote is being sought or has been sought in respect of UK parliamentary elections alongside local government elections in Scotland.

Overall, the changes apply to any indefinite absent votes for Scottish Parliament and local government elections where the ERO would otherwise be required to send a notice in writing to an absent voter before 7 May 2026 requesting a signature refresh. That requirement is instead extended to 31 January 2027.

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

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 Scottish Ministers certify that, in their view, the Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 is 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 has consulted with the UK and Welsh Governments, the Electoral Commission, the Electoral Management Board for Scotland and the Electoral Registration Committee of the Scottish Assessors Association in preparing this statutory instrument.

The proposed extension was also recommended by the Association of Electoral Administrators in its New Blueprint for a Modern Electoral Landscape in February 2025⁵.

The Electoral Commission has considered the draft instrument as a statutory consultee in accordance with section 7(1) and (2)(g) and (j) of the Political Parties, Elections and Referendums Act 2000.

Impact Assessments

A combined Equality Impact Assessment on this instrument and the closely related Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 has been prepared.

A Children's Wellbeing Impact Assessment has been prepared.

⁵ See Recommendation 9a: <https://www.aea-elections.co.uk/wp-content/uploads/2025/03/AEA-Blueprint-2025.pdf>

Financial Effects

Removing the requirement for EROs to write to 75,000 voters ahead of 31 January 2026 has the potential to deliver some cost savings to Scotland's 16 EROs. However, a communication would not have been necessary to all of those voters: any voter who also received a reminder to reapply for a postal vote for UK Parliament elections and then chose to use a combined paper-based application to vote by post in all elections would not have then received a refresh reminder in respect of their Scottish Parliament and local government postal vote.

It is intended that the OAVA system will be available to voters before 31 January 2027, and so change the way in which postal vote applications occur. However, that is not yet as set out in law. Without an OAVA go live, any voter whose signature refresh is extended as a result of this SSI will receive a communication from their ERO in the months prior to 31 January 2027.

Scottish Government

Constitution Directorate

September 2025

POLICY NOTE

THE ABSENT VOTING AT SCOTTISH PARLIAMENT AND LOCAL GOVERNMENT ELECTIONS (SIGNATURE REFRESH) (MISCELLANEOUS AMENDMENT) (SCOTLAND) ORDER 2025 SSI 2025/XXX

This instrument was made in exercise of the powers conferred by sections 3(1) and 16(2) and (3) of the Local Governance (Scotland) Act 2004 and sections 12(1) and 113(2), (3) and (5) of the Scotland Act 1998, and all other enabling powers. The instrument is subject to affirmative parliamentary procedure.

Summary Box

Where a voter with a postal or proxy vote's signature held on record is more than 5 years old and the does not provide a fresh signature sample to their Electoral Registration Officer (ERO) when requested, proxy or postal voting arrangements (called 'absent voting') come to an end. This Order apply to absent votes granted for an indefinite period or a period in excess of 5 years, where a new signature sample is due to be requested before 31 January 2026. The Order disapplies the requirement on the ERO to request a fresh signature by 31 January 2026. The effect of this is that these absent votes will continue in the absence of a fresh signature in 2026 with the next signature refresh being required by 31 January 2027.

Policy Objectives

Background

For Scottish Parliament elections and council elections, voters can have a postal or proxy vote for an indefinite or an extended period, but their local Electoral Registration Office will contact them to refresh their signature sample every five years. If a fresh signature sample is not provided, then the absent voting arrangement will cease (note that there are special arrangements if a person is unable to provide a signature sample).

An estimated 75,000 voters are due to be asked before the 7 May 2026 election to refresh their signature sample in order to retain a continuing absent vote for Scottish Parliament and Scottish local government elections. This is currently a paper-based process. If a new signature sample is not provided, the absent vote will cease.

At the same time, between 750,000 and 800,000 UK Parliament postal votes for voters in Scotland are due to expire on 31 January 2026 if not renewed. These voters can either apply using a paper form⁶ for all elections or for UK Parliament elections only using the Online Absent Voting Application portal (OAVA).

There is concern that many of the voters due to refresh their signature for Scottish Parliament and local elections may incorrectly think that a reapplication via OAVA for

⁶ For example: https://www.electoralcommission.org.uk/sites/default/files/2025-08/POS_PostalScotland2025_form.pdf

a UK Parliament absent vote was the only activity required to vote by post or proxy in the Scottish Parliament election on 7 May 2026.

This Order (and the closely related Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025) seek to alleviate this issue by disapplying the requirement in law for Electoral Registration Officers to send a notice requesting a fresh signature from persons entitled to vote by post or by proxy at whose signature on record is more than 5 years old. This requirement is temporarily disapplied where the notice would otherwise require to be sent by 31 January 2026. The registration officer will instead be required to send the notice by 31 January 2027. It is hoped that this will reduce scope for voter confusion and the potential for people having to suddenly seek an absent vote in spring 2026. It will also save voters from providing a new signature sample before the election.

A very similar approach - of extending extant postal (but not proxy) votes - was applied by the UK Government ahead of the 2024 UK Parliament General Election. It extended postal votes due for a signature refresh over 2023-25 to 31 January 2026⁷. The UK Government at that time sought to bring certain indefinite proxy votes to an end as part of the transition to the OAVA system⁸.

Although the Scottish Government is actively pursuing application of the OAVA system to Scottish Parliament and local government elections, it is considered that application of these Regulations to all absent voters held on an indefinite or extended period would be helpful to voters ahead of the May 2026 election.

Further detail on plans in relation to OAVA is available in the Scottish Government's Legislative Consent Memorandum to the Absent Voting (Elections in Scotland and Wales) Bill.⁹

The Order

This Order amends the Scottish Parliament (Elections etc.) Order 2015 ("the 2015 Order") in relation to the signature refresh requirements for absent votes for an indefinite or particular period (where that period is in excess of 5 years) in respect of Scottish Parliament elections or jointly in respect of both Scottish parliamentary and local government elections in Scotland, where the absent voter otherwise be due to receive a signature refresh notice by 31 January 2026.

This Order also amends the Representation of the People (Scotland) Regulations 2001 ("the 2001 Regulations") in relation to the signature refresh requirements for absent votes for an indefinite or particular period (where that period is in excess of 5 years) for Scottish local government elections where the absent voter would otherwise be due to receive a notice signature refresh notice by 31 January 2026. The 2001

⁷ See the comments by Lord Mott in the House of Lords on 19 September 2023: <https://hansard.parliament.uk/Lords/2023-09-19/debates/237A7553-A492-416B-9AA1-979158DEFCE2/RepresentationOfThePeople%28PostalAndProxyVotingEtc%29%28Amendment%29Regulations2023>

⁸ See the Explanatory Note to the Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2023: https://www.legislation.gov.uk/ukxi/2023/1147/pdfs/ukxiem_20231147_en_001.pdf

⁹ <https://www.parliament.scot/bills-and-laws/legislative-consent-memorandums/absent-voting-elections-in-scotland-and-wales-bill>

Regulations apply where a postal or proxy vote is being sought or has been sought in respect of UK parliamentary elections alongside local government elections in Scotland.

A separate instrument, the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 makes similar provision in relation to absent votes for an indefinite or particular period in respect of Scottish local government elections. These Regulations apply where a postal or proxy vote is being or has been sought in respect solely of local government elections in Scotland or of a particular local government election in Scotland.

Overall, the changes apply to any indefinite absent votes for Scottish Parliament and local government elections where the ERO would otherwise be required to send a notice in writing to an absent voter by 31 January 2026 requesting a signature refresh. That requirement is instead extended to 31 January 2027.

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

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 Scottish Ministers certify that, in their view, the Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 is 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 has consulted with the UK and Welsh Governments, the Electoral Commission, the Electoral Management Board for Scotland and the Electoral Registration Committee of the Scottish Assessors Association in preparing this statutory instrument.

The proposed extension was also recommended by the Association of Electoral Administrators in its New Blueprint for a Modern Electoral Landscape in February 2025¹⁰.

The Electoral Commission has considered the draft instrument as a statutory consultee in accordance with section 7(1) and (2)(g) and (j) of the Political Parties, Elections and Referendums Act 2000.

Impact Assessments

¹⁰ See Recommendation 9a: <https://www.aea-elections.co.uk/wp-content/uploads/2025/03/AEA-Blueprint-2025.pdf>

A combined Equality Impact Assessment on this instrument and the closely related Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 has been prepared.

A Children's Wellbeing Impact Assessment has been prepared.

Financial Effects

Removing the requirement for EROs to write to 75,000 voters ahead of 31 January 2026 has the potential to deliver some cost savings to Scotland's 16 EROs. However, a communication would not have been necessary to all of those voters: any voter who also received a reminder to reapply for a postal vote for UK Parliament elections and then chose to use a combined paper-based application to vote by post in all elections would not have then received a refresh reminder in respect of their Scottish Parliament and local government postal vote.

It is intended that the OAVA system will be available to voters before 31 January 2027, and so change the way in which postal vote applications occur. However, that is not yet as set out in law. Without an OAVA go live, any voter whose signature refresh is extended as a result of this SSI will receive a communication from their ERO in the months prior to 31 January 2027.

Scottish Government

Constitution Directorate

September 2025

Annexe B: Letter from the Minister for Parliamentary Business and Veterans – 31 October 2025

Dear Martin,

Online Absent Voting Application (OAVA)

I am sure that the Committee will join me in welcoming the passing of the Absent Voting (Elections in Scotland and Wales) Act 2025, which received Royal Assent on 27 October, and in congratulating Tracy Gilbert MP and Lord Murphy of Torfaen for their work in seeing the Bill through. This Act is a vital step in ensuring voters in Scottish and Welsh parliamentary and local council elections can apply online for postal and proxy votes. Secondary legislation on the next step in this process is now being prepared.

Committee Members will recall my predecessor's letter of 10 September on this subject (copy attached). That letter relayed the concerns of the Electoral Management Board for Scotland and Electoral Registration Officers that an OAVA go live day prior to next May's election represented an unacceptable degree of risk.

I am writing now to confirm that I have reached the decision to postpone the implementation of OAVA until as soon as possible after the Scottish Parliament election in May. While it is regrettable that OAVA could not be in place before the election, taking the decision now to defer OAVA removes uncertainty and will allow clear communications to voters of a projected 'go live' date. It will also provide more time for the Electoral Commission to prepare guidance for administrators and the public on absent voting.

My officials are consulting with the Welsh and UK Governments and with Electoral Registration Officers and the Electoral Commission on possible dates for OAVA to be implemented following the 7 May 2026 elections and I will update the Committee on this as soon as possible.

I also look forward to appearing before the Committee next Thursday to discuss secondary legislation seeking to extend the duration of any absent vote due to expire (if the signature sample is not refreshed) before the election to January 2027. This mitigating measure aims to reduce the risk of confusion among voters due to refresh their signature. For example, it is possible that some people might incorrectly think that a recent reapplication via OAVA for a UK Parliament postal vote was the only activity required to vote by post in the parliamentary election on 7 May 2026.

Yours sincerely,

GRAEME DEY