

Standards, Procedures and Public Appointments Committee
Thursday 8 October 2026
5th Meeting, 2026 (Session 7)

Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill

Purpose

1. The Committee will take evidence as part of its scrutiny of the [Scottish Local Government Elections \(Candidacy Rights of Commonwealth Citizens\) Bill](#) from—
 - Alistair Clark, Professor of Political Science, Newcastle University
 - Toby James, Professor of Politics and Public Policy at the University of East Anglia
 - Andy Hunter, Chair of the Scotland & Northern Ireland Branch, Association of Electoral Administrators;and then from—

Jamie Hepburn MSP, Minister for Parliamentary Business and Veterans supported by the following Scottish Government officials—

 - Iain Hockenhull, Elections Team
 - Angus Reid-Bryan, Elections Team
 - Lorraine Walkinshaw, Legal Directorate.
2. This is Stage 1 evidence on the Bill. At Stage 1, committees of the Scottish Parliament take evidence to help them come to a view on whether the Parliament should agree to the general principles of the Bill.
3. This paper provides background information on the Bill and a summary of the key points raised during the Committee's previous evidence session on the Bill.

About the Bill

4. The Bill was introduced on 9 September 2026 by the Scottish Government. The following documents accompany the Bill:
 - [Explanatory Notes](#)
 - [Policy Memorandum](#)
 - [Financial Memorandum](#)
 - [Delegated Powers Memorandum](#)
 - [Statements of legislative competence](#)

5. The Scottish Parliament Information Centre (SPICe) published a [research briefing](#) on the Bill on 23 September.

Bill background

6. One of several intended changes made by [the Scottish Elections \(Representation and Reform\) Act 2025](#) was to permit foreign nationals with limited leave to remain to stand as councillors. This took effect on 1 August 2025
7. However, on 24 June 2026, Jamie Hepburn MSP, Minister for Parliamentary Business and Veterans [wrote to the Committee](#) to advise that the Scottish Government had discovered a gap in the 2025 Act which would require to a legislative remedy. The gap was that this change unintentionally excluded foreign citizens with limited leave to remain who are Commonwealth citizens. He said the Scottish Government wished to correct in time for next May's local elections, by introducing a Bill in September.
8. The session 6 Standards, Procedures and Public Appointments Committee was the lead Committee for the Bill that became the 2025 Act. As part of its scrutiny, it issued a [Call for Views](#) which included a question about the changes proposed to allow "foreign nationals with limited leave to remain to stand for election".
9. As there was no awareness at the time of the gap later identified in the 2025 Act, this would have been intended as a question about allowing *all* foreign nationals to stand, including Commonwealth citizens.
10. SPICe's [Summary of Responses](#) noted that eight organisations and several individuals expressed an opinion on this topic. Organisations either supported the changes or noted technical or administrative issue such as the implications of leave to remain expiring during a term of office. Individuals who responded had varied views.
11. In oral evidence, the Committee heard principled support for extending the right to stand for elections that it would signal that Scotland is a fairer and more inclusive society. Other views were that the change could further complicate electoral law and increase costs (for instance through increasing the likelihood of more by-elections).
12. Paragraphs 55 to 89 of the Committee's [Stage 1 report](#) on that Bill set out the Committee's consideration of the evidence on extending candidacy rights to foreign nationals with limited leave in more detail.

13. The report concluded that it supported extending the candidacy rights of individuals with limited leave to remain. It noted concerns in evidence “about the potential risk that the extension of candidacy rights could be used by foreign players to undermine Scotland's electoral system” and asked the Scottish Government to “provide an undertaking to consider potential mitigations against such risks”. The Committee also supported the general principles of the Bill, which made a number of changes to electoral law.

Overview and contents of the Bill

14. The Explanatory Notes state that the purpose of the Bill is to ‘remedy a legal gap which means that, currently, Commonwealth citizens with limited leave to remain in the UK cannot stand or serve as a member of a local authority’. They say this arose from a ‘legislative oversight’ in the 2025 Act, with Commonwealth citizens “excluded from the definition of ‘qualifying foreign national’” and as a result “continue to be subject to the older requirement of needing indefinite leave to remain” to stand for local elections.
15. The policy memorandum explains that Section 1 of the Bill “updates the list of requirements which must be met in order to stand as a candidate at Scottish local government elections”.
16. Section 2 of the Bill gives effect to the expansion of candidacy rights for the next ‘ordinary local election’ scheduled for 6 May 2027. This means that the change does not apply to any by-elections held before 6 May 2027.
17. Section 3 of the Bill sets out “ancillary provision which allows for Scottish Ministers to make changes by regulation in order to give full effect to this Act”. These regulations are subject to the affirmative procedure if they amend an Act. Otherwise, they are subject to the negative procedure.

Financial Memorandum

18. The Financial Memorandum notes that the Bill could have some indirect costs. This relates to “the slight increase to the chance a local government by-election would have to take place, in cases where a local councillor with limited leave to remain was elected and subsequently lost their leave to remain in the UK”. It does not attempt to quantify a cost for this but says that the cost of a local government by-election between £50,000-£80,000. It says that the number of people who could benefit from the Bill (by gaining candidacy rights) is “difficult to estimate” and does not provide a number.

Delegated Powers

19. As noted, the Bill confers one new delegated power. This enables Scottish Ministers to make regulations “for the purposes of, in connection with or for giving full effect to this Act”.

20. The Delegated Powers and Law Reform Committee reported on this power on [17 September 2026](#). It said it was “content with the power in principle and with the choice of procedure”.

Key issues explored during the previous evidence session

21. The Committee’s first evidence session on the Bill was on 1 October, with the Electoral Management Board and with the Scottish Assessors’ Association. It covered the following themes—

- The Bill would not change the way Returning Officers deal with candidates. Returning Officers accept nomination papers at ‘face value’ and do not have the power to investigate further a candidate’s eligibility.
- As nomination papers do not require candidates to provide information about their immigration status, it is difficult to determine how many people with limited leave to remain stood as candidates at the last Scottish Parliament election.
- It is the responsibility of candidates to ensure that they are qualified to stand for election. Providing false information on a nomination paper is an offence.
- There are multiple reasons for which somebody elected could become disqualified from holding office and a change to their immigration status is only one of those reasons. When a person is disqualified, a by-election will be held.
- The importance of having consistent rules across elections to avoid creating confusion amongst voters.

Next steps

22. This is the final evidence session on the Scottish Local Government Elections (Candidacy Rights of Commonwealth Citizens) Bill at Stage 1. The Committee is expected to report its findings in November.

Committee Clerking Team

5 October 2026