

Standards, Procedures and Public Appointments Committee

6th Meeting 2023 (Session 6), Thursday 20 April 2023

Scottish Local Government Elections Amendment Regulations 2023 - 2023/81

Title of Instrument: The Scottish Local Government Elections
Amendment Regulations 2023

Type of Instrument: Negative

Laid Date: 20 March 2023

Meeting Date: 20 April 2023

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?: No. One minor point was noted in relation to the Policy Note which contains explanatory statements which do not appear to be necessary for this instrument.

Reporting deadline: 8 May 2023

1. An electronic copy of the Order is available at:
<https://www.legislation.gov.uk/ssi/2023/81/contents/made>

2. A copy of the Scottish Government's Policy Notes are included in Annexe A.

Purpose

3. This instrument amends the declaration on the candidate nomination form for local government elections by adding 'schedule 6A nationals'. This will ensure candidates who are nationals of countries listed in schedule 6A of the Local Government

(Scotland) Act 1973 can accurately declare their eligibility to stand as candidates for election.

Delegated Powers and Law Reform Committee (DPLRC)

4. The DPLRC considered the revised Code at its meeting on 28 March 2023 and [reported](#) that it had no comments to make.

Procedure for documents subject to approval

5. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

6. Under Rule 10.4, any member (whether a member of the lead committee or not) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument. At present no motion to annul has been laid for this instrument.

7. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument.

8. If no motion to annul has been laid then, at the conclusion of consideration of the instrument, the Committee will be invited to agree to make no recommendation in relation to the instrument.

Standards Procedures and Public Appointments Committee March 2023

Annexe - Scottish Local Government Elections Amendment Regulations 2023 - 2023/81**POLICY NOTE****THE SCOTTISH LOCAL GOVERNMENT ELECTIONS AMENDMENT REGULATIONS 2023****SSI 2023/081**

The above instrument was made in exercise of the powers conferred by section 2 of the Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022. The instrument is subject to the negative procedure.

Purpose of the instrument.

This instrument will add 'schedule 6A nationals' into the declaration on the candidate nomination form for Scottish local government elections.

Policy Objectives

This instrument amends the declaration on the candidate nomination form for local government elections by adding 'schedule 6A nationals'. This will ensure candidates who are nationals of countries listed in schedule 6A of the Local Government (Scotland) Act 1973 can accurately declare their eligibility to stand as candidates for election.

The Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022 inserted Schedule 6A into the Local Government (Scotland) Act 1973. In doing so it allowed citizens of four European countries (Luxembourg, Poland, Portugal, Spain) to stand as candidates in local government elections even if they only have limited leave to remain in the United Kingdom (any foreign national with indefinite leave to remain in the UK was already able to stand in Scottish Parliament and local government elections as a result of sections 2 and 3 of the Scottish Elections (Franchise and Representation) Act 2020). This instrument amends the candidate nomination form to reflect the change made in 2022.

If the list of countries at schedule 6A is changed in future, the updated wording on the forms made as a result of this instrument will reflect these changes without needing further amendments.

Explanation of the law being amended by the regulations

This instrument amends Scottish Local Government Elections Order 2011 ("the 2011 Order"). The 2011 Order sets out the rules for Scottish local government elections, including the candidate nomination form being amended by this instrument. This instrument amends "form 2" (nomination paper) which is set out in part VII of schedule 1 of the 2011 Order.

The instrument has no effect on retained EU law

The instrument only makes a consequential amendment to candidate nomination form, to reflect the terms of the Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022.

Further information

Consultation

There is no statutory requirement for consultation on the provisions of this instrument. However, the Scottish Government consulted with the Electoral Commission on the provisions of this instrument.

Impact Assessments

Full impact assessments have not been prepared for this instrument because this instrument makes a consequential textual change to the candidate nomination form, and does not make any policy change. Impact assessments were considered in the passing of the Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022. The same principles apply to this instrument, as it is implementing the Act.

Financial Effects

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

Scottish Government
Constitution Directorate
24 March 2023