POLICY NOTE

THE ABSENT VOTING (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

This instrument was made in exercise of the powers conferred by sections 53(1), (3), (9) and 201(3) and paragraphs 1(2) and (5A), 3, 5ZB(1), (2) and (5), 5A(1), (3) and (4) and 13(2) of schedule 2 of the Representation of the People Act 1983 ("the 1983 Act"), sections 12B(1) and (2) and 113(2), (3), (4) and (5) and 114 of the Scotland Act 1998 ("the 1998 Act"), sections 22(3), 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006, and all other powers enabling Scottish Ministers to do so. The instrument is subject to affirmative parliamentary procedure.

Summary Box

These Regulations (and the closely related Absent Voting (Miscellaneous Amendment) (Scotland) Order 2026 ("the 2026 Order")) seek to ensure access to the Online Absent Voting Application (OAVA) for voters in Scottish parliamentary and council elections.

The overall effect of both instruments will be to allow voters to apply online to vote by post and by proxy (together called 'absent voting'). The Regulations and Order together set 3 November 2026 as the 'go live' date for the system and make provision in respect of absent vote arrangements which exist prior to 3 November. The duration of existing indefinite or long-term postal votes is limited and where a voter has an absent vote entitlement for UK Parliament elections as well as Scottish Parliament or a local government elections, provisions are made to enable one combined record for a voter's absent votes after 3 November. This is necessary for access to OAVA.

In future, voters wishing a postal vote on a continuing basis will have to reapply every 3 years and all absent vote applications will require a National Insurance Number or other form of verification as an identity check.

In general, the Regulations set out the majority of the arrangements, while the Order makes specific (and consistent) provision for absent voting entitlements for Scottish Parliament elections where this is not set out in the Regulations or in the Absent Voting (Elections in Scotland and Wales) Act 2025 (discussed below).

Policy Objectives

Background

The UK Government launched the Online Absent Voting Application (OAVA) in 2023. From that date, voters in Scotland could apply online for an absent vote at UK Parliamentary elections but absent vote applications for Scottish parliamentary and local government elections were required to be made on paper. This created divergence in the processes for

applying for postal and proxy votes for UK Parliament elections from those for Scottish and Welsh parliamentary and council elections.

The Absent Voting (Elections in Scotland and Wales) Act 2025[1] ("the 2025 Act") enabled secondary legislation in the Scottish, Welsh and UK Parliaments to allow access to OAVA for Scottish and Welsh parliamentary and council elections. The provision made by the 2025 Act was necessary as the UK digital service used for voter registration, and through which absent voting applications will be submitted after these Regulations come into force, is a reserved matter under the Scotland Act 1998.

The Act also set out a new 3 year maximum period for continuing applications to vote by post at local government elections in Scotland (replacing the current arrangement under which postal votes can apply indefinitely provided a new signature sample is provided every five years). These provisions in the Act will be brought into force on 3 November 2026: the same day as voters are able to access OAVA for Scottish Parliament and local government elections in Scotland. Background on this Act can be found in the Scottish Government's Legislative Consent Memorandum to the Absent Voting (Elections in Scotland and Wales) Bill.[2] This included the following assessment:

> "26…The Scottish Government considers that access to OAVA will be a useful facility for Scottish voters since it will allow postal vote applications and most proxy vote applications to be made on online. At present voters in Scotland have to apply for an absent vote in Scottish Parliament and local elections by completing a paper form. However, they can already use OAVA to apply for an absent vote in UK General Elections.
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> 27. The Scottish Government is concerned that some voters may be confused by the different processes currently in operation and may believe they have a postal or proxy vote for all elections when they do not. A key aspect of this concerns the duration of 'continuing' postal votes. Prior to 2023 and the changes made by the Elections Act 2022, all postal votes where a voter had elected for a 'continuing' duration (rather than a one-off postal vote for a specific election) lasted for five years, after which a signature 'refresh' was required. The Elections Act 2022 changed that position for UK Parliament and English local elections and required a new application after three years. The five-year duration remains in place for Scottish and Welsh Parliament and local elections. It has become clear that retaining the current fiveyear refresh cycle when joining OAVA would be likely to result in very significant system development costs.
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> 28. The Scottish Government has also reflected on the merits of a three-year period for re-applying for a postal vote. While a three-year cycle means that people will have to make an application with more frequency, access to OAVA means that voters will, once again, be able to make one combined application for a postal vote in all elections in the UK. They will also be able to do so online.".

The Scottish Parliament granted legislative consent to the relevant provisions of the Bill that led to the 2025 Act on 25 June 2025.

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[1] https://www.legislation.gov.uk/ukpga/2025/27/contents/enacted

[2] https://www.parliament.scot/bills-and-laws/legislative-consent-memorandums/absent-voting-elections-in-scotland-and-wales-bill

The Absent Voting (Miscellaneous Amendment) (Scotland) Order 2026

The 2026 Order makes provision relating to absent voting applications in Scottish parliamentary elections and local government elections in Scotland and restricting the period for which a person can apply for a postal vote for Scottish parliamentary elections or for local government and Scottish parliamentary elections under the Scottish Parliament (Elections etc.) Order 2015. The provisions in the 2026 Order are not directly linked to online absent voting or the UK digital service.

The Absent Voting (Miscellaneous Amendment) (Scotland) Regulations 2026

The Regulations focus on amendments to three statutory instruments:

- The Representation of the People (Scotland) Regulations 2001 ("the 2001 Regulations") which 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.

- The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 ("the 2007 Regulations"), which apply where an absent 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.

- The Scottish Parliament (Elections etc.) Order 2015 ("the 2015 Order"), which applies where an absent vote is being or has been sought in respect of Scottish Parliament elections or jointly in respect of both Scottish parliamentary and local government elections in Scotland. The 2026 Order makes complementary changes to the 2015 Order, which are not directly linked to the UK digital service.

The Regulations will permit online postal and proxy applications for Scottish Parliament and local government elections via the UKG's online absent voting application system from 3 November 2026 onwards and will enable a combined online application system for voters in Scotland in all UK elections.

Application processing and security

Under the existing law Electoral Registration Officers process personal data in relation to allowing people to register to vote and to vote by post or proxy. With existing absent vote records from UK Parliament and Scottish Parliament and local elections being merged as part of the move to OAVA, Electoral Registration Officers are to be empowered to process online absent vote records and to make changes where there are conflicts in an elector's record between the details for UK Parliament and Scottish Parliament and local government absent votes.

Part 2 of the Regulations implement the new 3 year maximum period for which applications to vote by post at local government elections in Scotland can be granted as set out in the 2025 Act. The regulations also require absent voting applications to include the applicant's National Insurance Number or explain why they are unable to provide such a number. This change accords with the security requirements of the OAVA system and also applies to paper-based applications. This is because future paper-based applications will also be

recorded on the online system for recording absent votes. Applying to register to vote already requires a National Insurance Number and as with applications to register to vote, allowance will be made to accommodate voters without a National Insurance Number.

As with UK Parliament proxy votes, long-term proxy votes for Scottish Parliament and local government elections will continue to require a fresh signature sample every 5 years.

Provision is also made to ensure Electoral Registration Officers can seek relevant supporting evidence from applicants for the verification of information provided in absent voting applications (whether or not submitted online) and the use of the UK digital service in relation to absent voting applications. The goal is to ensure consistent information is held for absent voting entitlements for local government elections in Scotland, Scottish parliamentary elections and UK parliamentary elections.

Part 3 of the Regulations amends the 2015 Order to accommodate absent voting applications for Scottish parliamentary elections, made using OAVA. This includes provision on the processing of applications including transmission of data to Electoral Registration Officers. It also permits proxy applications for a specific election to be made up to 5 pm on polling day if an earlier online application has been delayed due to technical issues with the online application process.

Arrangements for people with absent vote entitlements on 3 November 2026

Part 4 of the regulations make provision to enable use of the UK digital service[3] in relation to absent voting applications for Scottish Parliament elections and local government elections in Scotland, in particular where prior to 3 November voters held absent vote arrangements for UK Parliament elections as well as Scottish Parliament and local government elections. This could for example, mean that a voter holds a proxy vote for UK Parliament elections and a postal vote for Scottish Parliament elections, or that a voter has a postal vote for UK Parliament elections with a need to reapply in 2027 and a Scottish Parliament postal vote with a need to provide a new signature sample in 2028.

The Scottish Parliament and local government record and the UK Parliament record for any absent voter must match when access to OAVA for Scottish Parliament elections and local government elections is allowed on 3 November. The record must then continue to match in future if both records are to remain on the system at the same time. The scheme for convergence set out in the Regulations will in most cases end the voter's Scottish Parliament and local government absent vote if a difference in the record remains on that date. Where the current arrangements do not match (e.g. a person has a proxy vote for Scottish Parliament elections and a postal vote for UK Parliament elections), the registration officer is required to write to the voter ahead OAVA going live (on 3 November 2026) to inform them of the discrepancy and that the records must match if the voter's absent vote entitlement is to remain in place on the convergence date. This provides the opportunity to make a fresh absent voting application to fix the discrepancy. If a fresh application, which synchronises the records, is not made before the convergency date, then the Scottish Parliament and local government absent vote arrangement will be cancelled.

[3] See https://www.gov.uk/register-to-vote

Where a voter has postal vote arrangements for UK Parliament and Scottish Parliament and local government elections immediately before 3 November 2026, the normal expected result of convergence will be one combined postal vote for all elections. The key change will be to the date on which a continuing postal vote will expire if no new application is received. In most instances, it is expected that the new expiry date will be that of the UK Parliament postal vote. This is because a substantial number of UK Parliament postal votes were due to be renewed in January 2026, while legislation in 2025[4] extended to 2027 the lifespan of any Scottish Parliament and local government postal vote due to expire (if no new signature sample was provided) prior to the 7 May 2026 Scottish Parliament election. For example, if, prior to 3 November 2026, a voter has a Scottish Parliament postal vote where the signature refresh date was 31 January 2027 and a UK Parliament postal vote where a new application would be sought by 31 January 2028, the new combined postal vote for all elections will now extend to 31 January 2028.

In general, where the effect of the Regulations is that a person's Scottish Parliament and local government absent voting entitlement will cease to have effect on 3 November 2026 the registration officer must inform the person of this before the relevant day and that a new application may be required.

The overall effect is as follows (this summary uses "devolved" as a shorthand for absent votes for Scottish Parliament and local government elections):

a) Where a person has the same designated proxy for both Scottish Parliament and UK Parliament elections, the new signature refresh date for the proxy will match that of the UK Parliament proxy vote.

b) If a person holds both a devolved and UK Parliament postal vote and the postal vote addresses on record do not match, the devolved postal vote entitlement will end on the relevant day. The discrepancy may be resolved by the voter submitting a fresh application to ensure the records match beforehand.

c) If a person holds both a devolved and a UK Parliament postal vote entitlement and the signatures on record differ, the signature held for the person's UK Parliament postal vote will apply.

d) If a person holds both a devolved and a UK Parliament absent vote entitlement and a signature waiver applies to only one, the devolved entitlement will end on the relevant day.

e) If a person holds both a devolved and a UK Parliament proxy appointment and the proxy names or addresses on record do not match, the devolved proxy vote will end on the relevant day. The voter may make a fresh application to resolve the discrepancy beforehand.

[4] The Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 [https://www.legislation.gov.uk/ssi/2025/354/contents/made] and The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 [https://www.legislation.gov.uk/ssi/2025/263/contents/made]

f) If a person has a devolved postal vote entitlement and a UK Parliament proxy vote, the devolved entitlement will end on the relevant day. The discrepancy can only be resolved by a fresh application.

g) If a person has a devolved proxy entitlement and a UK Parliament postal vote entitlement, the devolved proxy entitlement will end on the relevant day. The voter may make a fresh application to resolve the discrepancy.

h) In relation to postal proxy vote entitlements, the position is complicated by the current set up of the OAVA system, under which a proxy voter who wishes to cast a proxy vote by post will have their application processed separately from the OAVA system. A future change to permit processing of postal proxy votes on OAVA is under discussion with the UK Government. In the interim, postal proxy applications for local elections will be processed away from OAVA. Where a person has a devolved postal proxy and a reserved postal proxy the devolved postal proxy will end on the relevant day.

Provision is also made so that where an absent voting application for local government elections in Scotland made before, but not determined by 3 November 2026 it is treated as not having been made, with information on how to make a fresh voting application to be provided.

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 (Miscellaneous Amendment) (Scotland) Regulations 2026 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 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 including in selecting the 3 November date. The UK Information Commissioner was consulted on changes relevant to processing of personal data.

The Welsh Government is taking forward equivalent provision for access by voters in Welsh Senedd and local government elections to OAVA.

The UK Government consulted in this area in 2024 in the context of a proposal to use a Legislative Reform Order to allow applications for postal and proxy voting arrangements for

Scottish Parliament and local government elections in Scotland and Wales to be made online[5].

Impact Assessments

A combined Equality Impact Assessment on this instrument and the closely related Absent Voting (Miscellaneous Amendment) (Scotland) Order 2026 has been prepared.

A Children's Wellbeing Impact Assessment has been prepared.

Financial Effects

Modification of the OAVA system to permit applications by voters in Scottish and Welsh Parliament and local government elections will create a cost shared between the Scottish and Welsh Governments. This cost is still to be fully established but is expected to be a one-off cost in the region of £1 million for each Government.

In the long term, moving to a combined absent voting record for all elections should reduce costs on Electoral Registration Officers as they will no longer have to process separate applications and contact voters separately in relation to absent votes for UK Parliament elections and Scottish Parliament and local government elections.

Scottish Government
Constitution Directorate

January 2026

[5] https://www.gov.uk/government/consultations/absent-voting-legislative-reform-order/proposal-to-use-a-legislative-reform-order-to-allow-applications-for-postal-and-proxy-voting-arrangements-for-devolved-elections-in-scotland-and-wales