POLICY NOTE

The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2021

SSI 2021/XXX

1. The above instrument was made in exercise of the powers conferred by sections 53(1)(c) and (3) and schedule 2 of the Representation of the People Act 1983 and all other powers enabling the Scottish Ministers to do so. This instrument is subject to affirmative procedure.

Summary Box

These regulations amend the deadline for an elector to seek a replacement for a spoilt or lost ballot paper from 5pm to 10pm on the day of poll.

Policy Objectives

2. The purpose of this instrument is to amend the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 ("the 2007 Regulations", SSI 2007/263). The 2007 Regulations have previously been amended by the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009 and the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016**.** The 2007 Order sets out the procedures for the issue and receipt of postal ballot papers at Local Government elections.

3. In terms of section 5 of the Local Government etc. (Scotland) Act 1994 (as amended by the Scottish Elections (Dates) Act 2016), the next ordinary Local Government election is scheduled to take place on 5 May 2022.

4. If approved, these Regulations will apply to any election for which the date of the poll is on or after 5 May 2022.

Amendments

5. The changes set out in these Regulations are as follows:

   Amendment of the deadline for applying for a replacement for a spoilt postal ballot paper *(Regulation 2(2))*

6. The existing deadline for applying for a replacement for a spoilt postal ballot paper, as set out in regulation 15 of the 2007 Regulations, is 5pm on the day of poll. This regulation amends that deadline to 10pm on the day of poll. This change will allow more flexibility for an elector to seek a replacement for a spoilt postal ballot paper, should that be required.

Amendment of the deadline for applying for a replacement for a lost postal ballot paper *(Regulation 3(2))*

7. The existing deadline for applying for a replacement for a lost postal ballot paper, as set out in regulation 16 of the 2007 Regulations, is 5pm on the day of poll. This regulation amends that deadline to 10pm on the day of poll. This change will allow more flexibility for an elector to seek a replacement for a lost postal ballot paper, should that be required.

8. The above changes bring practice for Local Government elections into line with that at Scottish Parliament elections by standardising on a 10pm deadline for replacement of spoilt or lost postal ballot papers.

Consultation

9. The following bodies and stakeholders were consulted on these draft Regulations:

- Electoral Commission
- Electoral Management Board for Scotland
- Association of Electoral Administrators
- Electoral Registration Committee of the Scottish Assessors Association
- Society of Local Authority Lawyers & Administrators in Scotland
- Society of Local Authority Chief Executives and Senior Managers
- COSLA
- Political Parties represented in the Scottish Parliament

Responses were received from:

- Electoral Commission;
- Electoral Management Board for Scotland, which incorporated the views of Electoral Registration Committee of the Scottish Assessors Association;
- Association of Electoral Administrators; and
- A political party.

10. Concerns were expressed by Returning Officers over the need to provide staff to issue replacement postal ballot packs until 10pm on the day of poll, as opposed to 5pm. Their concern was that this would require additional staff at what is already a busy time.

11. However, the Scottish Government's view, which was supported by the Electoral Commission, is that the additional time for voters to seek a replacement postal ballot paper, thereby maximising turnout, outweighs Returning Officers concerns around staffing. A 10pm deadline for replacement of spoilt and lost postal ballot papers is already in place at Scottish Parliament elections and we see no practical reason why there should be a different deadline for Local Government elections.

Impact Assessments

12. An equality impact assessment (EQIA) has been produced for the instruments laid ahead of the 2021 Scottish Local Government elections. It will be published alongside the SSIs when they are laid before Parliament.

13. The Scottish Government view is that these Regulations have no significant impact on child rights and wellbeing, data protection, the environment, or island communities and therefore no impact assessments are required for those areas.

Business and Regulatory Impact Assessment (BRIA)

14. The Scottish Government does not consider that a BRIA is necessary as the policy changes will not lead to any significant new costs or savings for business, third or public sector organisations, regulators or consumers and there is no transfer of costs or benefits from one group to another.

Financial Implications

15. Local authorities are responsible for meeting the cost of Local Government elections from within their overall budget. These Regulations are not expected to result in any significant increased costs.

Scottish Government
Directorate for Constitution and Cabinet

September 2021