POLICY NOTE

THE SCOTTISH LOCAL GOVERNMENT ELECTIONS AMENDMENT (No. 2) ORDER 2016

SSI 2016/XXXX

1. The above instrument, if approved, will be made by Scottish Ministers in exercise of the powers conferred by sections 3(1) and 16(2) and (3) of the Local Governance (Scotland) Act 2004. The instrument is subject to affirmative resolution procedure.

Policy Objectives

2. The purpose of the instrument is to update the Scottish Local Government Elections Order 2011 (S.S.I. 20011/399 as amended) ("the 2011 Order"). These changes will amend the rules for local government elections in time for the election of members of Scottish local authorities in May 2017.

3. Schedule 1 of the 2011 Order sets out the rules which apply for the purpose of the conduct of local government elections. Those rules are amended by this Order, in some cases to follow amendments made to the Scottish parliament elections rules and in other cases so as to ensure consistency with further developments in electoral administration in Scotland (e.g. the introduction of the Local Electoral Administration (Scotland) Act 2011).

4. The changes made to the rules in schedule 1 of the 2011 Order are as follows:

- Rule 25 is amended so as to require that information to voters on how to complete the ballot papers is placed in every polling booth, therefore providing detailed guidance to voters at the point of casting their vote. The form of the notice is laid out in the new Form 13A.

- Rule 43 is amended so as to require returning officers to make available copies of the ballot paper verification statement to candidates and election agents, rather than waiting until it is requested.

- Rule 44 is amended so as to reflect that if an electronic system is unable to read the unique identifying mark then other methods can be used to ensure that ballot papers are counted, for example if ballot papers are damaged in some way and can't be electronically scanned.

- In Part VII, a new form 13A is introduced which provides guidance at each ballot booth to voters on how to complete the ballot paper. Other forms have been updated to reflect changes made to similar forms for the Scottish parliament elections.

- Paragraph 22 of schedule 2 and schedule 4 of the 2011 Order are revoked so as to reflect the change that the same postal voting statement can be used for different elections on the same day, making it easier for voters and returning officers.

Amendment of the Representation of the People Act 1983

- A new subsection (5A) is inserted into section 76 of this Act (maximum amount included in limitation of election expenses). This makes provision in connection with the Access to Elected Office Fund by excluding expenses that are reasonably attributable to a candidate's physical or mental impairment as forming part of their election expenses.

Consultation

5. The following bodies and stakeholders have been consulted during the preparation of the instrument:

Electoral Management Board for Scotland
Society of Local Authority Lawyers and Administrators
Association of Electoral Administrators
Electoral Registration Committee of the Scottish Assessors Association
Scottish Parliament Political Parties Panel
Scotland Electoral Reform Society
Inclusion Scotland
1in5
Disability Agenda Scotland
Cosla
Scottish Local Government Partnership
Society of Local Authority Chief Executives (SOLACE)
Society of Local Authority Lawyers and Administrators (SOLAR)
Scottish Disability Equality Forum
Equality and Human Rights Commission Scotland
The Electoral Commission

Responses

6. The following organisations submitted responses

Scottish Labour Party
Electoral Registration Committee of the Scottish Assessors Association
Society of Local Authority Lawyers and Administrators (SOLAR)
The Electoral Commission
Councillor Andrew Burns on behalf of the City of Edinburgh Council
Scott Martin, Solicitor, SNP

Their responses to the consultation have helped inform the content of the Order.

Impact Assessments

7. The Scottish Government has completed an Equality Impact Assessment as it considers the policy will have an impact on all people entitled to vote at an election. The Order has no impacts on the environment, privacy or children's rights and therefore no Impact Assessments are required for those areas.

8. A Business Regularity Impact Assessment is deemed not be required in this instance as policy changes will not lead to costs or savings for business, third or public sector organisations, regulators or consumers. There is no additional cost on the public sector as the Scottish Government would continue to meet the costs of associated activity whether or not it was in the legislation and there is no transfer of costs or benefits from one group to another.

Financial Effects

9. Local authorities are responsible for meeting the cost of local government elections from within their overall budget.

10. As electronic counting will be used at the local government elections in May 2017 the additional core costs of its introduction will be met by the Scottish Government. These core costs cover the provision of hardware (scanners and computer equipment), software programmes, technical support and training.

11. The instrument has no financial effects on business.

Scottish Government
Strategy and Constitution Directorate

September 2016