Draft Order laid before the Scottish Parliament under section 16(5) of the Local Governance (Scotland) Act 2004 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

REPRESENTATION OF THE PEOPLE

The Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026

Made - - - -	*2026*
Coming into force - -	*2026*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1) and (3), 3A(1) and 16(2) and (3) of the Local Governance (Scotland) Act 2004(**a**) ("the 2004 Act") and section 76A(1) of the Representation of the People Act 1983(**b**) and all other powers enabling them to do so.

The Scottish Ministers consider that the variation of sums effected by this Order is expedient in consequence of changes in the value of money.

In accordance with section 16(5) of the 2004 Act(**c**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 7(1) and (2)(j) of the Political Parties, Elections and Referendums Act 2000(**d**), the Scottish Ministers have consulted the Electoral Commission.

(**a**) 2004 asp 9. Section 3 was relevantly amended by section 34(6) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), section 3A was inserted by section 2(1) of the Scottish Local Government (Elections) Act 2009 (asp 10) and section 16(3) was amended by section 2(2)(a) of the Scottish Local Government (Elections) Act 2009 (asp 10).

(**b**) 1983 c. 2. Section 76A was substituted and deemed to be a pre-commencement enactment by section 133(1) and (2) of the Political Parties, Elections and Referendums Act 2000 (c. 41). There are amendments to section 76A not relevant for the purposes of this Order. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). The powers to make this Order are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) and the Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.

(**c**) Section 16(5) was amended by section 2(2)(b) of the Scottish Local Government (Elections) Act 2009 (asp 10) and has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(**d**) 2000 c. 41. Section 7(2)(j) was inserted by section 12 of the Local Electoral Administration (Scotland) Act 2011 (asp 10).

Citation, commencement, extent and transitional provisions

1.—(1) This Order may be cited as the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026 and comes into force on the day after the day on which it is made.

(2) This Order extends to Scotland only.

(3) This Order has no effect for the purposes of any election for which the date of the poll is on or before 5 May 2027.

Amendment of the Representation of the People Act 1983

2.—(1) The Representation of the People Act 1983(**a**) is amended as follows.

(2) In section 67 (appointment of election agent)—

(a) in subsection (6)(**b**) for ", unless subsection (6ZA) applies" substitute "(but see subsections (6ZA) and (6ZB))",

(b) for subsections (6ZA) and (6ZB)(**c**) substitute—

"(6ZA) Subsection (6ZB) applies where a declaration under subsection (1) or (4) in relation to an election agent of a candidate at a local government election in Scotland is accompanied by—

(a) an address (a "correspondence address") in the United Kingdom that may be used for correspondence with the election agent, and

(b) a request that a public notice under subsection (6) in relation to the declaration includes the correspondence address instead of the address stated in the declaration.

(6ZB) In such a case—

(a) the address stated in the declaration must not be included in the public notice, and

(b) the correspondence address must be included in the public notice.".

(3) In section 70 (effect of default in election agent's appointment) for subsection (5) substitute—

"(5) Where in a local government election in Scotland a candidate is by virtue of this section to be treated as the candidate's own election agent, the candidate's office is deemed to be—

(a) where the candidate has given a correspondence address in accordance with rule 4(11B) of schedule 1 of the Scottish Local Government Elections Order 2011(**d**), at that address, or

(b) otherwise, at the address given under rule 4(10)(a)(ii) of that schedule.".

(4) In section 76 (limitation of election expenses)—

(a) in subsection (2)(b)(ii)(**e**)—

(i) for "£806" substitute "£940", and

(ii) for "7p" substitute "8p",

(**a**) 1983 c. 2.

(**b**) Subsection (6) was amended by section 38(2)(a) of the Scottish Elections (Representation and Reform) Act 2025 (asp 4).

(**c**) Subsections (6ZA) and (6ZB) were inserted by section 38(2)(b) of the Scottish Elections (Representation and Reform) Act 2025 (asp 4).

(**d**) S.S.I. 2011/399 as relevantly amended by S.S.I. 2020/239 and S.S.I. 2026/254.

(**e**) Section 76(2)(b)(ii) was amended by paragraph 18(2) of schedule 1 (and paragraph 1 of schedule 7) of the Representation of the People Act 2000 (c. 2), S.S.I. 2012/16, S.S.I. 2016/263 and S.S.I. 2021/310.

(b) in subsection (5A)(d)(**a**), for "in providing for the protection of persons or property at rallies or other public events" substitute "that are reasonably attributable to the protection of persons or property",

(c) in subsection (6), after "poll" insert ", other than a poll for a local government election in Scotland,",

(d) after subsection (6), insert—

"(6A) Where a poll for a local government election in Scotland is countermanded or abandoned by reason of a candidate's death, the maximum amount will, for any of the other candidates who then remain validly nominated, be increased by an amount equal to the amount specified by subsection (2)(b)(ii) for each countermanding or abandonment which occurs.

(7) Where the date of the poll at an ordinary local election has been postponed under section 43A(1) or 43B(1) of this Act(**b**), the maximum amount will have effect in relation to any candidate at that election as if the amount specified in subsection (2)(b)(ii) were increased by one half.

(8) Where the date of the poll at an election to fill a casual vacancy in the office of councillor has been fixed under section 37A(2) or 37B(2) of the Local Government (Scotland) Act 1973(**c**), the maximum amount will have effect in relation to any candidate at that election as if the amount specified in subsection (2)(b)(ii) were increased by one half.

(9) Where the date of the poll at an election to fill a casual vacancy in the office of councillor has been fixed under section 37A(4) of the Local Government (Scotland) Act 1973, the maximum amount will have effect in relation to any candidate at that election as if the maximum amount specified in subsection (2)(b)(ii) were increased by one half.

(10) Where more than one of the circumstances described by subsections (6A), (7), (8) or (9) are applicable to a poll, the increases in the maximum amount provided for by the applicable subsections are to apply cumulatively.

(11) Other than in the circumstances described by subsections (6A) to (9), the maximum amount specified in subsection (2)(b)(ii) for a candidate shall not be affected by a change in the timing of a local government election in Scotland or of any step in the proceedings at such an election.

(12) For the purposes of this section—

"casual vacancy in the office of councillor" means a casual vacancy in the office of councillor to which section 36 of the Local Government (Scotland) Act 1973(**d**) applies,

"ordinary local election" has the meaning given in section 43(1C) of this Act(**e**).".

(**a**) Subsection (5A) was inserted by S.S.I. 2016/354 and amended by S.S.I. 2021/437.

(**b**) Sections 43A and 43B were inserted by the sections 32(3) and 33(2) of the Scottish Elections (Representation and Reform) Act 2025 (asp 4).

(**c**) 1973 c. 65. Sections 37A and 37B were inserted by section 34(2) of the Scottish Elections (Representation and Reform) Act 2025 (asp 4).

(**d**) Section 36 was amended by S.I. 1996/739, section 29(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) and section 4(4) of the Scottish Local Government (Elections) Act 2002 (asp 1).

(**e**) Section 43(1C) was inserted by section 2(1) of the Scottish Local Government (Elections) Act 2002 (asp 1).

Amendment of the Scottish Local Government Elections Order 2011

3. In schedule 1 of the Scottish Local Government Elections Order 2011(**a**), in Part 5 (publication of voting information), in rule 61—

(a) for paragraph (2A)(**b**) substitute—

"(2A) For the purposes of this rule—

(a) all postal ballot papers cast in a ward must be treated as if cast at an additional polling station in that ward, and

(b) only postal ballot papers may be treated as cast at that additional polling station.",

(b) after paragraph (6) insert—

"(6A) Paragraph (3) does not apply to postal ballot papers or to any additional polling station treated as existing by virtue of paragraph (2A)(a).".

Name
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

(**a**) S.S.I. 2011/399 as relevantly amended by S.S.I. 2012/60.
(**b**) Paragraph (2A) was inserted by S.S.I. 2012/60.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Representation of the People Act 1983 ("the 1983 Act") and the Scottish Local Government Elections Order 2011 ("the 2011 Order").

Article 2(2) amends section 67 of the 1983 Act to allow an election agent to provide a correspondence address instead of a personal address for correspondence and public notice purposes. This applies to both an election agent appointed originally and to one appointed following the revocation of the appointment, or the death, of a previous election agent.

Article 2(3) amends section 70 of the 1983 Act to provide that where a candidate becomes their own election agent by default, the candidate's office is deemed to be either their home address or the correspondence address provided in their nomination papers. A correspondence address must be provided where the candidate has not requested publication of their home address, or has requested publication but their home address is outside Scotland. In those cases, the correspondence address is treated as the candidate's office. Where the candidate has requested publication of their home address and that address is in Scotland, the candidate's home address is treated as their office.

Article 2(4) amends section 76 of the 1983 Act to increase the maximum amount of candidates' election expenses, at local government elections in Scotland. This maximum amount is made up of a fixed amount together with an additional sum for each entry in the register of electors. The fixed amount is increased from £806 to £940, and the sum for each entry in the register of electors from 7p to 8p. Section 76 is also amended in relation to expense limits which apply to candidates where a local government ordinary election or by-election is postponed, countermanded or abandoned.

Article 3 amends rule 61 of the Scottish local government election rules in schedule 1 of the 2011 Order to provide that all postal vote ballot papers cast in a ward must be treated as if cast at an additional polling station in that ward for the purposes of publishing information on voting. The amendment also provides that the requirement for a returning officer to aggregate votes from a polling station where fewer than 200 votes are cast with those from another polling station does not apply to postal votes.

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Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106682-9

£6.40

http://www.legislation.gov.uk/id/sdsi/2026/9780111066829

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