POLICY NOTE

THE SCOTTISH LOCAL GOVERNMENT ELECTIONS (ELECTION AGENTS, EXPENSES AND PUBLICATION OF INFORMATION) AMENDMENT ORDER 2026

SSI 2026/XXX

The above instrument was made 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 and section 76A(1) of the Representation of the People Act 1983, and all other powers enabling the Scottish Ministers to do so.

The instrument is subject to *affirmative procedure*.

Summary Box

Purpose of the instrument.

This Order amends the Representation of the People Act 1983 and the Scottish Local Government Elections Order 2011. It allows for an election agent or a candidate acting as their own election agent to provide a correspondence address instead of a personal address for correspondence and public notice purposes, provides that, where candidates have not requested that their home address (within Scotland) should be made public, an alternative correspondence address provided by them in their nomination paper is treated as their office address should they become their own election agent by default, increases candidates' expenditure limits to reflect the effect of inflation, sets out how expenses limits which apply to candidates are amended where a local government ordinary general election or by-election is postponed and clarifies the rules around how postal ballot boxes should be electronically aggregated for publication of voting information. These changes will apply to all Scottish local government elections which take place on or after 6 May 2027.

Policy Objectives

1. The purpose of this instrument is to amend the Representation of the People Act 1983 ("the 1983 Act") and the Scottish Local Government Elections Order 2011 (the "2011 Order") to reflect changes to the rules and procedures for the running of Local Government elections in Scotland. The changes are set out in more detail below.

2. 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 6 May 2027.

3. If approved, this Order will apply to any election for which the date of the poll is on or after 6 May 2027.

4. Most of the rules which governed the running of absent voting at the ordinary local government general election held in May 2022 will remain the same, however this instrument makes a change which reflect developments since the last election.

5. In addition to this Order, the Scottish Local Government Elections Amendment Order 2026, the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 and the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2026 will make further changes to the rules for the running of local government elections in Scotland.

6. The changes set out in this Order are as follows:

Appointment of election agent
(Article 2(2) and (3))

7. Section 67 of the 1983 Act sets out the process for appointing an election agent, including the publication of agents' names and the addresses where they can be contacted. Amendments introduced by Part 6 of the Scottish Elections (Representation and Reform) Act 2025 allow an election agent for a candidate at a local government election to request that their home address is not published and instead provide a correspondence address. This change was in response to concerns about the safety of election agents and their families, if their home address were to be made publicly available. However, it did not make a similar provision for a replacement election agent appointed following the revocation of an earlier appointment or the death of a previous agent. This amendment applies to both the election agent originally appointed and any subsequent election agent.

8. Article 2(2) amends section 67 of the 1983 Act to enable an election agent, including where a candidate appoints themselves as agent, to provide a correspondence address instead of a personal address for correspondence and public notice purposes. This option would be available 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. However, there are 3 situations where a candidate is deemed to have appointed themself as their own election agent by default.

    - Where no person's name or address is given as the election agent of a candidate;
    - If the appointed agent dies and a new appointment is not made on the day of the death or the following day; or
    - If the appointment of a candidate's election agent is revoked without a new appointment being made

9. If any of these situations were to arise, the returning officer is required to publish a notice giving the name and address of the candidate and the address of their office. If the candidate has not provided an office address, then, by default, the candidate's home address would be published. Article 2(3) amends section 70 of the 1983 Act so that, where a candidate becomes their own election agent by default, their home address will be treated as their office address if they have requested that it be made public, provided that it is an address in Scotland. If they have not made such a request or the address is outwith Scotland, the correspondence address provided in their nomination paper for that purpose will instead be treated as their office address.

10. This provision is complemented by Article 3 of the Scottish Local Government Elections Amendment Order 2026, which will amend rule 4 of the Scottish local government elections rules (set out in schedule 1 of the 2011 Order) to require candidates who have not requested publication of their home address, and candidates who have requested publication of their home address but whose home address is outside Scotland, to provide a correspondence address in Scotland in their nomination paper.

Limitation of election expenses
(Article 2(4))

Candidates' expenditure limits (article 2(4)(a))

11. Section 76(2)(b)(ii) of the Representation of the People Act 1983 sets out the maximum amount that a candidate at a local government election may incur on their election expenses. The purpose of this article is to amend section 76(2)(b)(ii) to increase these maximum amounts and thereby reflect the change in the value of money since those maximum amounts were last set in 2021.

12. this article updates the maximum amount of a candidate's election expenses at a local government election in Scotland from £806, together with an additional 7p for every entry in the register of electors, to £940 together with an additional 8p for every entry in the register of electors.

13. For example, a candidate standing in a ward with 20,000 registered electors would have an expenditure limit of £2,540, made up of £940 plus £0.08 multiplied by 20,000 (£1,600). This compares with £2,206 under the previous amounts, an increase of 15.1%

Expenditure on security arrangements (article 2(4)(b))

14. Article 2(4)(b) amends section 76 of the 1983 Act to adjust the exemption for candidate campaign expenditure in relation to security. The Electoral Commission had highlighted that the current exemption only applies to security costs in relation to rallies or other public events and that is possible for candidates to incur security expenses in other ways (e.g. on cybersecurity and canvassing security).

Expenditure increases due to postponement of the poll (Article 2(4)(c) and (d))

15. Section 43 of the 1983 Act sets out that Scottish local government elections are to occur on the first Thursday in May in every year in which ordinary elections are to be held (see section 5 of the Local Government etc. (Scotland) Act 1994) unless specified by order under subsections (1)(b), (1AB) or (1B) of that section.

16. Section 43A of the 1983 Act, inserted by section 32 of the Scottish Elections (Representation and Reform) Act 2025, gives the convener of the Electoral Management Board for Scotland (EMB) a power to postpone an ordinary election by up to 4 weeks. Before fixing a new date the convener must consult the Electoral Commission, the Scottish Ministers, and the Secretary of State.

17. Section 43B of the 1983 Act, inserted by section 33 of the Scottish Elections (Representation and Reform) Act 2025, gives returning officers a power, in relation to

their local government area only, to postpone the poll at an ordinary election for that area by up to 4 weeks.

18. Similarly, sections 37A and 37B of the Local Government (Scotland) Act 1973, both inserted by section 34 of the Scottish Elections (Representation and Reform) Act 2025, gives returning officers a power to fix another date for the poll at a by-election that is within 3 months of the date fixed. The returning officer may also then delay a poll re-arranged under section 37A by up to a further 3 months.

19. Article 2(4)(d) of this Order sets out that where a poll at an ordinary election is postponed under sections 43A or 43B of the 1983 Act, or the poll at a by-election is postponed under sections 37A or 37B of the Local Government (Scotland) Act 1973, candidates' election expenditure limits are increased by 50% of the usual maximum amount for each postponement, to allow for the increased expense of a longer campaign.

20. Article 2(4)(d) also clarifies that, where a local government election is countermanded or abandoned following the death of a candidate, the maximum amount of expenses that may be incurred by a candidate is increased by an additional amount equal to the usual spending limit for each countermanded or abandoned election.

21. These increases are cumulative to, and not multiples of, the original expenditure limit. For example, where a poll is postponed once and then for a second time, an increase of 50% of the original limit is applied for each postponement, such that the applicable limit is double the original spending limit.

22. Article 2(4)(d) further clarifies that the maximum amount of expenses that may be incurred by a candidate is not affected by any other change to the timing of a local government election or to any step in the proceedings at such an election.

Amendment of the Scottish Local Government Elections Order 2011
(Article 3)

23. Rule 61 of the 2011 Conduct Order sets out the publication requirements for making voting information available after a poll where electronic counting is used. Rule 61 also includes safeguards to ensure that the secrecy of individual votes is protected.

24. Experience has shown that whilst the intention of Rule 61(2A) appears to have been to allow for the mixing of postal and polling station ballot papers, in practice this is not providing voting information in a helpful way. In addition, Returning Officers have been interpreting Rule 61(2A) differently. Some Returning Officers publish voting information for individual postal ballot boxes and others have merged station and postal ballot boxes together using the software provided by the eCounting system. It is considered that mixing postal and polling station votes distorts the published information for both methods of voting.

25. The changes set out in article 3 require that, for publication of voting information purposes, all postal ballot boxes cast in a single ward should be treated as cast at an additional polling station in that ward and that only postal ballot papers may be treated as cast at that additional polling station. This means that all postal ballot papers cast in a

single ward will be dealt with separately from other ballot papers cast in that ward for the purposes of publishing information. Voting data from the eCounting system should be published on that basis and voting information on all postal ballot papers cast in a ward will be published in a single place.

26. It is considered that this will result in the following benefits:

    - It will reduce the number of published items in respect of postal ballot boxes.
    - It will enable the eCounting system provider to create a much simpler and user-friendly ballot box merging solution and reduce the possibility of errors (e.g. merging station and postal boxes).

27. The changes set out in article 3 only relate to the publication of information post poll, they do not affect the way that the count is carried out or the existing arrangements for the declaration of the result.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

28. 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 Act), the Scottish Ministers certify that, in their view, the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

29. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

30. The Electoral Commission and electoral administrators were consulted extensively during the drafting of this Order.

31. In accordance with section 7(1) and (2)(j) of the Political Parties, Elections and Referendums Act 2000, the Scottish Ministers have consulted with the Electoral Commission during the drafting of this Order.

Impact Assessments

32. The Scottish Government has prepared a Child Rights and Wellbeing Impact Assessment (CRWIA). The CRWIA concludes that the overall impact of this Order on children's rights is both positive and neutral.

33. An equality impact assessment (EQIA) has been produced for the instruments laid ahead of the 2027 Scottish local government elections. It will be published alongside the SSIs when they are laid before Parliament.

34. The Scottish Government view is that this Order have no significant impact on data protection, the environment, fairness; island communities and therefore no impact assessments are required for those areas.

Business and Regulatory Impact Assessment (BRIA)

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

Financial Implications

36. Local authorities are responsible for meeting the cost of local government elections from within their overall budget. This Order is not expected to result in any increased costs.

Scottish Government
Directorate for Constitution

September 2026