Draft Regulations laid before the Scottish Parliament under sections 5(3) and 72(3)(a) of the Scottish Elections (Representation and Reform) Act 2025, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

CONSTITUTIONAL LAW

REPRESENTATION OF THE PEOPLE

The Scottish Parliament (Disqualification of Councillors) Regulations 2025

Made - - - - 2025

Coming into force in accordance with regulation 1(2)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 5(1) and (2) and 72(1) of the Scottish Elections (Representation and Reform) Act 2025 (the "2025 Act")(**a**) and all other powers enabling them to do so.

In accordance with sections 5(3) and 72(3)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and transitional provision

1. —(1) These Regulations may be cited as the Scottish Parliament (Disqualification of Councillors) Regulations 2025.

(2) They come into force on the day after the day on which they are made.

(3) The amendments made by regulations 3 to 5 do not have effect until the day of the poll at the first general election for membership of the Scottish Parliament (see sections 2 and 3 of the Scotland Act 1998) held after the coming into force of these Regulations.

Amendment to the Scotland Act 1998

2. The Scotland Act 1998(**b**) is modified in accordance with regulations 3 to 5.

(**a**) 2025 asp 4.
(**b**) 1998 c. 46.

Disqualification of Councillors

3. In section 15(**a**) (disqualification from membership of the Parliament)—

(a) after subsection (1)(b) insert—

"(bzc) the person is a councillor,",

(b) in subsection (4) before the definition of "relevant notification requirements" insert—

""councillor" means a member of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**b**).".

Periods of exception

4.—(1) In section 16(**c**) (exceptions and relief from disqualification) after subsection (1) insert—

"(1ZE) A person who is a member of the Parliament and is subsequently returned as a councillor is not disqualified from being a member of the Parliament merely because of section 15(1)(bzc) (disqualification by virtue of being a councillor) at any time in the period of 49 days beginning with the day on which the person is returned as a councillor.

(1ZF) Subsection (1ZG) applies if—

(a) a person who is a councillor is subsequently returned as a member of the Parliament, and

(b) on the day on which the councillor is so returned (the "return day"), the expected day of the next ordinary election of councillors is within the period of 372 days beginning with the return day.

(1ZG) The person is not disqualified from being a member of the Parliament merely because of section 15(1)(bzc) at any time in the period beginning with the day on which the person is returned as a member of the Parliament and ending on the day of the poll at the next ordinary election of councillors.

(1ZH) Otherwise, a person who is a councillor and is subsequently returned as a member of the Parliament is not disqualified from being a member of the Parliament because of section 15(1)(bzc) at any time in the period of 49 days beginning with the day on which the councillor is returned as a member of the Parliament.

(1ZI) For the purposes of subsection (1ZF) "the expected day of the next ordinary election of councillors" is the day fixed or specified for the poll at the next ordinary election of councillors by, or under, section 43 or section 43A of the Representation of the People Act 1983(**d**), which has effect at the beginning of the return day.".

Limitation on salaries of members of the Parliament

5. At the end of section 82(**e**) (limitation on salaries of members of the Parliament) insert—

(**a**) Section 15(1) is amended by sections 40(4) and 146, paragraph 94 of schedule 9 and Part 5 of schedule 18 of the Constitutional Reform Act 2005 (c. 4) and sections 6(2)(a), 12(2) and 15(2) of the 2025 Act, S.S.I. 2025/XXX and S.S.I. 2025/XXX.

(**b**) 1994 c. 39.

(**c**) Section 16 is amended by section 1 and paragraph 1 of schedule 4 of the House of Commons (Removal of Clergy Disqualification) Act 2001 (c. 13) and section 2 of the Scottish Elections (Franchise and Representation) Act 2020 (asp 6). S.S.I. 2025/XXX and S.S.I. 2025/XXX.

(**d**) 1983 c. 2. Section 43A was inserted by section 32 of the Scottish Elections (Representation and Reform) Act 2025.

(**e**) Section 82 is relevantly amended by the Constitutional Reform and Governance Act 2010 (c. 25), schedule 5 paragraph 11(2)(a) and by S.S.I. 2025/XXX.

"(2C) The Parliament must ensure that the amount of salary payable to a member of the Parliament in accordance with section 81(1) is reduced by the amount specified in subsection (2D) if remuneration is also payable to the member in respect of the same period under regulations made under section 11(1) of the Local Governance (Scotland) Act 2004(**a**) ("the 2004 Act").

(2D) The amount of the reduction for the purposes of subsection (2C) is the amount specified as payable to a councillor (who is not designated the Leader of the Council, the Civic Head or a senior councillor) by regulations made under section 11(1) of the 2004 Act.".

Name
Authorised to sign by the Scottish Ministers

St Andrews House
Edinburgh

(**a**) 2004 asp 9.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Scotland Act 1998 to provide that a person who is a councillor on a Scottish council is disqualified from membership of the Scottish Parliament, subject to the exceptions provided. These Regulations come into force on the day after the day on which they are made, but do not disqualify any member of the Scottish Parliament (an "MSP") until the poll at the next general election for members of the Scottish Parliament.

Regulation 3 disqualifies a person from membership of the Scottish Parliament if they are also a councillor.

Regulation 4 provides exceptions. An MSP who is subsequently returned as a councillor is not disqualified from being an MSP for 49 days beginning with the day on which they were returned as a councillor. A councillor who is subsequently returned as an MSP is not disqualified if there are 372 or fewer days between the day on which the person is returned as MSP and the day on which the next ordinary election of councillors is due to be held. If there are 373 or more days between the day on which the person is returned as an MSP and the next ordinary election of councillors, a councillor subsequently returned as an MSP is not disqualified from being an MSP for 49 days beginning with the day on which they are returned as an MSP.

Regulation 5 provides that the Scottish Parliament must ensure that an MSP who also receives a salary as a councillor has their MSP salary reduced by the amount of remuneration specified as payable to a councillor (who is not designated the Leader of the Council, Civic Head or a senior councillor) by regulations made under section 11(1) of the Local Governance (Scotland) Act 2004. The current regulations are the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007 (S.S.I. 2007/183).

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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 978-0-11-106346-0

£6.40

http://www.legislation.gov.uk/id/sdsi/2025/9780111063460

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