Draft Regulations laid before the Scottish Parliament under section 3(1) 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 Members of the House of Commons) 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 section 3(1) and (2) of the Scottish Elections (Representation and Reform) Act 2025(**a**) and all other powers enabling them to do so.

In accordance with section 3(3) 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 Members of the House of Commons) 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.

Amendments to the Scotland Act 1998

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

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

Disqualification of members of the House of Commons

3. In section 15(1)(**a**) (disqualification from membership of the Parliament) after paragraph (b) insert—

"(bza) the person is a member of the House of Commons,".

Period of exception

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

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

(1ZB) A person who is a member of the Parliament and is subsequently returned as a member of the House of Commons is not disqualified from being a member of the Parliament merely because of section 15(1)(bza) at any time in the period of 49 days beginning with the day on which the person is returned as a member of the House of Commons.".

Limits on salaries of members of the Parliament

5. In section 82(**c**) (limits on salaries of members of the Parliament)—

(a) in subsection (1) omit paragraph (za) and the "or" immediately following it,

(b) in subsection (2)(b) for "(1)(za) or (a)" substitute "(1)(a)",

(c) after subsection (2) insert—

"(2A) The Parliament is to make no payment of salary to a member of the Parliament in accordance with section 81(1) in respect of any period in which the member is or was also a member of the House of Commons.

(2B) Subsection (2A) does not apply to any salary payable to a member of the Parliament under section 81(1) in their capacity as—

(a) the First Minister,

(b) a Minister or junior Scottish Minister,

(c) the Lord Advocate or Solicitor General for Scotland,

(d) the Presiding Officer or a Deputy Presiding Officer.".

(**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 Scottish Elections (Representation and Reform) Act 2025 (asp 4), S.S.I. 2025/XXX and S.S.I. 2025/XXX.

(**b**) 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.

(**c**) Section 82 is relevantly amended by paragraph 11(2)(a) of schedule 5 of the Constitutional Reform and Governance Act 2010 (c. 25).

Name
Authorised to sign by the Scottish Ministers

St Andrews House
Edinburgh

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 member of the House of Commons (an "MP") 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 an MP.

Regulation 4 provides for two periods of exception during which this disqualification does not apply. One period of exception begins on the day on which an MP is subsequently returned as a member of the Scottish Parliament. The other period of exception begins on the day on which an MSP is subsequently returned as an MP. Each period of exception operates for a maximum of 49 days.

Regulation 5 provides that the Scottish Parliament is not to pay a salary to an MSP in respect of any period during which the MSP is or was also an MP. The additional salary which a member receives for being the First Minister, a Scottish Minister, a junior Scottish Minister, the Lord Advocate, the Solicitor General for Scotland, the Presiding Officer, or a Deputy Presiding Officer is not subject to this restriction.

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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 978-0-11-106344-6

£6.40

http://www.legislation.gov.uk/id/sdsi/2025/9780111063446

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