Draft Regulations laid before the Scottish Parliament under section 4(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 Lords) 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 4(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 4(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 Lords) 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 4 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 and 4.

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

Disqualification of members of the House of Lords

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

"(bzb) the person is a member of the House of Lords,".

Periods of exception

4. In section 16(**b**) (exceptions and relief from disqualification)—

(a) subsection (1) is repealed,

(b) after subsection (1) insert—

"(1ZC) A person who is a member of the House of Lords 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)(bzb) (disqualification by virtue of being a member of the House of Lords) at any time in the period of 14 days beginning with the day on which the person is returned as a member of the Parliament.

(1ZD) A person who is a member of the Parliament and subsequently becomes a member of the House of Lords is not disqualified from being a member of the Parliament merely because of section 15(1)(bzb) at any time before the end of the period of 14 days beginning with the day on which the member makes and subscribes the oath (or corresponding affirmation) required of members of the House of Lords by the Parliamentary Oaths Act 1866(**c**).".

Name
Authorised to sign by the Scottish Ministers

St Andrews House
Edinburgh

(**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 was 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**) 1866 c. 19.

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 Lords ("a HoL member") is disqualified from membership of the Scottish Parliament, subject to the exceptions provided. These Regulations come into force on the day after they are made, but do not disqualify any member of the Scottish Parliament (an "MSP") until the day of 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 a HoL member.

Regulation 4 repeals section 16(1) of the 1998 Act which specifically states that HoL members are not disqualified and provides for periods of exception in which disqualification does not apply. A HoL member who is subsequently returned as an MSP is not disqualified from being an MSP in the period of 14 days beginning on the day on which they are returned as an MSP. An MSP who becomes a HoL member during their term as an MSP is not disqualified from being an MSP in the period of 14 days beginning with the day on which the person takes the oath of office (or makes the affirmation of office) applicable to HoL members under the Parliamentary Oaths Act 1866.

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