Draft Order laid before the Scottish Parliament under section 115 and schedule 7 of the Scotland Act 1998, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

CONSTITUTIONAL LAW

REPRESENTATION OF THE PEOPLE

The Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025

Made - - - -	*2025*
Coming into force - -	*2025*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 12(1) and 113(2), (4) and (5) of the Scotland Act 1998(**a**) and all other powers enabling them to do so.

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

In accordance with section 115 and schedule 7 of the Scotland Act 1998(**c**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and transitional provisions

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 and comes into force on the day after the day on which it is made.

(2) This Order has no effect for the purposes of any election for which the date of the poll is on or before 6 May 2026.

(**a**) 1998 c. 46 ("the 1998 Act"). Section 12 was substituted by section 4(1) of the Scotland Act 2016 (c. 11) ("the 2016 Act"). The powers in section 113(2), (4) and (5) of the 1998 Act apply to the exercise of the Scottish Ministers powers under section 12 by virtue of section 113(1A) of that Act, which was inserted by section 3 of the Scotland Act 2012 (c. 11) ("the 2012 Act").

(**b**) 2000 c. 41; section 7 was relevantly amended by section 3(5) of the 2012 Act.

(**c**) Schedule 7 was relevantly amended by section 3 of the 2012 Act.

Amendment of the Representation of the People Act 1983

2. In section 7B(2A)(a) (notional residence: declaration of local connection) of the Representation of the People Act 1983(**a**) for "16" substitute "21".

Amendment of Political Parties, Elections and Referendums Act 2000

3. After section 145(3) of the Political Parties, Elections and Referendums Act 2000(**b**) (duties of the Commission with respect to compliance with controls imposed by the Act etc.) insert—

"(3A) In relation to a Scottish parliamentary general election or an election held under section 9 of the Scotland Act 1998 (constituency vacancies), the reference in subsection (1)(b) to any enactment includes a reference to any enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.".

Amendment of the Scottish Parliament (Elections etc.) Order 2015

4. The Scottish Parliament (Elections etc.) Order 2015(**c**) is amended in accordance with articles 5 to 16.

Payment of expenses through election agent: constituency and individual regional candidates

5. In article 38(4) (payment of expenses through election agent: constituency and individual regional candidates)—

(a) at the end of sub-paragraph (b) omit "or",

(b) after sub-paragraph (b) insert—

"(ba) any expenses incurred on account of any matter falling within article 41(1) by a person authorised as mentioned in that provision; or".

Limitation of election expenses

6.—(1) In article 42 (limitation of election expenses: constituency and individual regional candidates)(**d**)—

(a) after paragraph (2A) (limitation of election expenses: constituency and individual regional candidates) insert—

"(2B) Notwithstanding paragraph (8), where the date of the poll at a Scottish parliamentary election has been postponed by a further proclamation under section 2(5E) of the Scotland Act 1998,(**e**) the maximum amount will have effect in relation to any candidate at that election as if the maximum amount were increased by one half of the amount specified in paragraph (2).",

(b) in paragraph (6)(c) for "in providing for the protection of persons of property at rallies or other public events" substitute "that are reasonably attributable to the protection of persons or property",

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(**a**) 1983 c. 2. Section 7B(2A) was inserted by section 8 of the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7).

(**b**) 2000 c. 41. The Act was relevantly amended by sections 1(3), 39 and schedule 7 of the Political Parties and Elections Act 2009, section 38(2), (3) and (4) of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014.

(**c**) S.S.I. 2015/425, amended by the Scottish Elections (Franchise and Representation) Act 2020 (asp 6), S.S.I. 2020/179, S.S.I. 2020/426.

(**d**) Article 42 was relevantly amended by S.S.I. 2020/426.

(**e**) Section 2(5E) of the Scotland Act 1998 (c. 46) was inserted by section 27(2)(c) of the Scottish Elections (Representation and Reform) Act 2025 (asp 4).

(c) in paragraph (7) for "twice" to the end substitute "increased by an amount equal to the amount specified by paragraph (2) for each countermanding or abandonment which occurs.",

(d) after paragraph (7) insert—

"(7A) Where more than one of the circumstances described by paragraphs (2A), (2B) or (7) are applicable to a poll, the increases in the maximum amount provided for by the applicable paragraphs are to apply cumulatively.", and

(e) in paragraph (9) for "2020" substitute "2025".

(2) In article 43 (limitation of pre-candidacy election expenses: constituency and individual candidates at Scottish Parliament elections)(**a**)—

(a) in paragraph (3)—

(i) in sub-paragraph (b) after "section 2(5)" insert "or (5E)",

(ii) in sub-paragraph (c) after"section 2(5)" insert"or (5E)",

(b) in paragraph (5A) after"section 2(5)" insert"or (5E)".

Notional expenses

7. In article 60 (property, goods, services etc. provided free of charge or at a discount), after paragraph (1), insert—

"(1A) For the purposes of paragraph (1)(b), property, goods, services or facilities are made use of on behalf of a candidate only if their use on behalf of the candidate is directed, authorised or encouraged by the candidate or the candidate's election agent.".

Undue influence

8. For article 77 (undue influence) substitute—

"Undue influence

77.—(1) A person is guilty of a corrupt practice if that person is guilty of undue influence.

(2) A person ("P") is guilty of undue influence if P carries out an activity falling within paragraph (4) for the purpose of—

(a) inducing or compelling a person to vote in a particular way or to refrain from voting, or

(b) otherwise impeding or preventing the free exercise of the franchise of an elector or of a proxy for an elector.

(3) A person ("P") is also guilty of undue influence if P carries out an activity falling within any of paragraph (4)(a) to (f) on account of—

(a) a person having voted in a particular way or refrained from voting, or

(b) P assuming a person to have voted a particular way or to have refrained from voting.

(4) The following activities fall within this paragraph—

(a) using, or threatening to use, violence against a person,

(**a**) Article 43 was relevantly amended by S.S.I. 2020/426.

(b) damaging or destroying, or threatening to damage or destroy, a person's property,

(c) damaging, or threatening to damage, a person's reputation,

(d) causing, or threatening to cause, financial loss to a person,

(e) causing spiritual injury to, or placing undue spiritual pressure on, a person,

(f) doing any other act designed to intimidate a person,

(g) doing any act designed to deceive a person in relation to the administration of an election.

(5) For the purposes of paragraph (2) and (3) an activity is carried out by P if it is carried out—

(a) by P,

(b) by P jointly with one or more other persons, or

(c) by one or more other persons on behalf of P with P's authority or consent.

(6) In paragraph (4)(f) and (g) "act" includes an omission (and references to the doing of an act are to be read accordingly).".

Meaning of "candidate"

9. In article 80(1) (interpretation of Part 3) in the definition "a person becomes a "candidate" in relation to a Scottish parliamentary election"—

(a) omit "of" where it first occurs,

(b) for "the dissolution of the Scottish Parliament" substitute "which is 28 days before the date of the poll, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time)",

(c) before "the occurrence" insert "of", and

(d) for "consequence of" substitute "connection with".

Dissolution of Parliament: minimum period

10. In article 84 (dissolution of Parliament: minimum period)(**a**) for "28 days" substitute "20 days".

Effect of demise of the Crown

11. In article 91 (effect of demise of the Crown) after "section 2(5)" insert", or requiring the poll at the election to be held on a different day as mentioned in section 2(5E),".

Supply of free copy of full register for electoral purposes

12. In paragraph 1 (supply of free copy of full register for electoral purposes) of schedule 1 (supply of electoral registers)(**b**) in sub-paragraph (2)(a)—

(a) in sub-head (i) for "the date of the dissolution of the Parliament as provided for at section 2(3)(a) of the 1998 Act" substitute "the date which is 28 days before the date of the poll, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time)",

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(**a**) Section 2(4) of the 1998 Act provides that the minimum period in section 2(3) of that Act is the period determined in accordance with an order under section 12(1) of the Act. Article 84 of the principal Order makes provision determining the minimum period.

(**b**) Paragraph 1 of schedule 1 was relevantly amended by S.S.I. 2020/426.

(b) in sub-head (ii) after both appearances of "section 2(5)" insert "or (5E),".

Provisions as to time

13. In Part 1 (provisions as to time) of schedule 2 (Scottish parliamentary election rules)(**a**)—

(a) in paragraph 1A (application of timetable where proceedings at a Scottish parliamentary election are postponed)—

(i) in sub-paragraph (1)(b) after "section 2(5)" insert "or (5E),",

(ii) in sub-paragraph (3)(b) after "section 2(5)" insert "or (5E),",

(iii) in sub-paragraph (6)(b) after"section 2(5)" insert"or (5E),".

(b) in paragraph 1B after"section 2(5)" insert "or (5E),".

Equipment of polling stations

14.—(1) In paragraph 38 (equipment of polling stations) of schedule 2 (Scottish parliamentary election rules)—

(a) for sub-paragraph (4)(b) substitute—

"(b) such equipment as it is reasonable to provide for the purposes of enabling, or making it easier for, relevant persons to vote independently in the manner directed by rule 46 (including in relation to voting secretly).",

(b) after sub-paragraph (4) insert—

"(4A) For the purposes of sub-paragraph (4)(b) "relevant persons" means persons who find it difficult or impossible to vote in the manner directed by rule 46 because of—

(a) blindness or partial sight, or

(b) another disability.

(4B) The Electoral Commission must give guidance to CROs in relation to the duty imposed by sub-paragraph (4)(b).

(4C) Before giving guidance under sub-paragraph (4B), the Commission must consult such persons, including bodies representing the interests of relevant persons, as they consider appropriate.

(4D) In performing the duty imposed by sub-paragraph (4)(b), a CRO must have regard to guidance given under sub-paragraph (4B).",

(c) omit sub-paragraphs (5) to (10).

Proxy voting

15.—(1) In schedule 3 (absent voting)(**b**)—

(a) after paragraph 7(7B) (additional requirements for applications for a proxy vote in respect of a particular election)(**c**) insert—

"(7C) Sub-paragraph (7D) applies where such an application (or an application under article 10(7) made by virtue of that application) is made after 5 pm on the sixth day before the date of the poll at the election for which it is made and on the grounds that

(**a**) Part 1 of schedule 2 was relevantly amended by S.S.I. 2020/426.

(**b**) Schedule 3 was relevantly amended by paragraph 2(5)(b) of schedule 1 of the Scottish Elections (Franchise and Representation) Act 2020 (asp 6), S.S.I. 2020/426, S.S.I. 2021/164.

(**c**) Paragraph 7(7B) was added by paragraph 2(5)(b) of schedule 1 of the Scottish Elections (Franchise and Representation) Act 2020 (asp 6).

the applicant cannot reasonably be expected to vote in person at the applicant's allotted polling station because—

(a) the applicant is acting as a companion to another person, whilst that person is receiving medical care or treatment, and

(b) the medical care or treatment will take place, or is likely to take place, on the date of the poll for the election for which the application was made.

(7D) An application to which sub-paragraph (7C) applies must be attested and signed by a person who—

(a) is aged 16 years or over,

(b) knows the applicant, and

(c) is not related to the applicant.

(7E) The person ("P") attesting an application under sub-paragraph (7D) must—

(a) certify that the information required by sub-paragraph (1) is true to the best of P's knowledge and belief,

(b) state—

(i) P's name and address,

(ii) that P is aged 16 years or over,

(iii) that P knows, but is not related, to the applicant,

(iv) the reasons why the applicant was unable to make the application before 5 pm on the sixth day before the date of the poll at the election for which it is made.",

(b) for paragraph 7A (emergency change of proxy: coronavirus)(**a**) substitute—

"Emergency change of proxy: proxy unable to vote in person

7A.—(1) This paragraph applies where—

(a) a proxy is appointed to vote for a person ("the elector") at a forthcoming Scottish parliamentary election (whether or not the proxy is appointed only for that particular election),

(b) the proxy is not entitled to vote by post at that election, and

(c) the circumstances of the proxy on the date of the poll will, or are likely to, be such that they cannot be reasonably expected to vote in person at the polling station allotted or likely to be allotted to the elector.

(2) Where this paragraph applies, the elector may apply to the ERO for an alternative person to be appointed as their proxy under article 10(6) (appointment of a proxy for an indefinite period or for a period specified in the application) or article 10(7) (appointment of a proxy for the particular election).

(3) An application to which sub-paragraph (2) applies must state the reasons why the circumstances of the proxy on the date of the poll will, or are likely to, be such that they cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector.",

(c) in paragraph 9(4) (closing dates for applications)(**b**)—

(**a**) Paragraph 7A was added by S.S.I. 2021/164.
(**b**) Paragraph 9 was relevantly amended by S.S.I. 2020/426 and S.S.I. 2021/164.

(i) in head (c), for "and the applicant became detained in a penal institution after 5 pm on the sixth day before the date of the poll at the election for which it is made"substitute "relating to the applicant's detention in a penal institution",

(ii) at the end of head (d), omit "or",

(iii) insert "or" at the end of head (e),

(iv) after head (e), insert—

"(f) on the grounds set out in paragraph 7(7C) and the applicant became aware of those grounds after 5 pm on the sixth day before the date of the poll at the election for which it is made,".

Replacement postal ballot paper

16.—(1) In schedule 4 (issue and receipt of postal ballot papers)(**a**)—

(a) in paragraph 13(3) (spoilt ballot paper) for "10 pm" substitute "5 pm",

(b) in paragraph 14(6) (lost postal ballot paper) for "10 pm" substitute "5 pm".

Name
Authorised to sign by the Scottish Ministers

St Andrew's House
Edinburgh
Date

(**a**) Schedule 4 was amended by S.S.I. 2020/426.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Scottish Parliament (Elections etc.) Order 2015 ("the 2015 Order"). The 2015 Order sets out provisions relating to the conduct of elections for, and the return of members to, the Scottish Parliament.

This Order also amends the Representation of the People Act 1983 ("the 1983 Act") in relation to procedure for registering to vote for persons under 16 and the Political Parties, Elections and Referendums Act 2000 ("PPERA") in relation to the Electoral Commission's duties to monitor election expenses and donations at Scottish Parliament elections.

The changes made by this Order will not apply to any election held on or before 6 May 2026.

Section 7B of the 1983 Act sets out the procedure for a person to register as a local government elector for an electoral area on the basis of a declaration of local connection, rather than by registering as a person living at an address in that area. Section 7B(2A) to (2C) makes this procedure available to children looked after by a local authority (or who have been looked after by a local authority) who are under 16. Article 2 increases this age limit to under 21.

Article 3 amends section 145 of PPERA which places a duty on the Electoral Commission to monitor, and take reasonable steps to secure, compliance with (among other things) restrictions and requirements in relation to election expenses and donations to candidates and election agents. This extends the duty to include any restriction or requirement contained in an Act of the Scottish Parliament or secondary legislation made under such an Act, where the Electoral Commission is performing the duty in relation to a Scottish Parliament general election or by-election.

Articles 5 to 16 amend the 2015 Order.

Article 5 amends article 38 of the 2015 Order so that expenses incurred under article 41 by an authorised third party do not have to be paid by the election agent. The amendment ensures that third parties are able to both incur and pay for authorised expenses under article 38, rather than the expenses being paid through the agent of the candidate they are promoting.

Article 6 amends articles 42 and 43 to extend their application to a poll the date of which is changed by a proclamation of His Majesty under section 2(5E) of the Scotland Act 1998 ("the 1998 Act"). Where a further proclamation is issued to postpone a poll, inserted article 42(2B) provides that the maximum amount candidates may spend is increased by one half of the original maximum amount specified by article 42(2). Article 5 also amends article 42(7) which deals with the maximum amount where a poll is rescheduled due to the death of a candidate - in that case the maximum amount is increased by an amount equal to the original maximum amount specified in article 42(2), and inserts article 42(7A) which provides that increases to the maximum amount applied by article 42(2A), (2B) and (7) where a poll is postponed apply cumulatively where more than one postponement has occurred. Article 5 also updates a reference to the Scottish Parliament (Constituencies and Regions) Order 2020 to the Scottish Parliament (Constituencies and Regions) Order 2025 (S.S.I. 2025/[ ]) which gives effect to boundary changes proposed by Boundaries Scotland in their Second Review of Scottish Parliament Boundaries. Article 5 also corrects a typographical error.

Article 7 amends article 60 of the 2015 Order to clarify the law in relation to notional expenditure to ensure that benefits in kind, such as property, goods services or facilities supplied to a candidate

in an election to the Scottish Parliament for free or at a discount, should only qualify as an election expense for the relevant campaign where their use is directed, authorised or encouraged by the candidate or the candidate's election agent.

Article 8 updates the offence of undue influence in keeping with modern legislative drafting practice. It remains an offence to use certain violent, threatening, intimidating, injurious or deceptive behaviour to influence whether a person votes, the way in which a person may choose to vote, or to otherwise impede or prevent their free exercise of the franchise. It remains possible to commit this offence either personally, acting jointly with others or by a person authorising others to act on their behalf. A person guilty of the offence of undue influence is guilty of a corrupt practice under section 168 of the 1983 Act.

Article 9 amends article 80(1) of the 2015 Order which defines the time at which a person becomes a "candidate" for the purposes of Part 3 of the 2015 Order so that a person who has already been declared a candidate becomes a candidate for the purposes of the Order 28 days before the date of the poll, calculated in accordance with rule 2 of the Scottish Parliament Election Rules in schedule 2 of the 2015 Order.

Article 10 amends the minimum duration for which the Parliament must be dissolved before an ordinary general election may occur. The amendment reduces the period from 28 days to 20 days, also calculated in accordance with rule 2 of schedule 2 of the 2015 Order.

Article 11 amends article 91 of the 2015 Order so a proclamation under section 2(5E) of the 1998 Act setting a different day for the poll at the election remains valid in the event of the demise of the Crown.

Article 12 amends paragraph 1 of schedule 1 of the 2015 Order to provide that the "relevant date" after which electoral registration officers must provide copies of the register of electors free of charge to returning officers is the day 28 days before polling day, calculated in accordance with rule 2 of schedule 2 of the 2015 Order, and to include a proclamation under section 2(5E) of the 1998 Act as one of the proclamations the announcement of which is a relevant date for those purposes.

Article 13 amends paragraph 1A of schedule 2 to add a proclamation under section 2(5E) of the 1998 Act as one of the circumstances which may require the returning officer to publish the notices set out in paragraph 1A and to adopt a new timetable as provided for in that paragraph. It also amends paragraph 1B of schedule 2 to add such a proclamation as one of the circumstances in which a returning officer may make use of materials printed for the originally scheduled date of the poll.

Article 14 amends paragraph 38 of schedule 2 to substitute for the existing requirement that constituency returning officers provide a specified device to allow blind and partially sighted voters to vote independently, a duty to provide such equipment as is reasonable to enable (or make it easier for) disabled voters, including those who are blind or partially sighted, to vote independently. It also requires the Electoral Commission to produce guidance on this duty, and requires constituency returning officers to have regard to that guidance in fulfilling the duty to provide equipment to assist disabled voters.

Article 15 amends schedule 3 of the 2015 Order which contains provision about absent voting and allows late applications for emergency proxy votes in specified circumstances.

The amendments allow late application for an emergency proxy to be made where the applicant cannot vote in person on the date of the election as they will be accompanying another person to attend medical care or treatment. A late application can be made in these circumstances only when the applicant became aware of the grounds after 5 pm on the sixth day before the poll at the election for which it is made. Applications must be attested and signed by a person who is aged 16 years or over, knows the applicant, and is not related to the applicant. The deadline for applications is 5pm on the date of the poll.

A time limited coronavirus-related provision in paragraph 7A of schedule 3 of the 2015 Order is replaced with a new provision that enables an elector with a proxy vote to appoint an alternative proxy where the proxy's circumstances are such that they cannot reasonably be expected to vote in person at the polling station allocated to the elector and they do not have a postal vote. The deadline for such an application is 5 pm on the day of the poll at the election (see paragraph 9(3A) of schedule 3).

The deadline for emergency applications made on grounds that the applicant is detained in prison is amended so that prisoners who are eligible to vote in Scottish Parliament elections can apply for an emergency proxy vote until 5 pm on the date of the poll. This deadline will apply irrespective of when the applicant was originally detained in prison.

Article 16 amends schedule 4 which makes provision about the issue and receipt of postal ballot papers. The deadline for replacing a lost or spoilt postal ballot paper is changed from 10 pm to 5 pm on the day of the poll.

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