POLICY NOTE

THE REPRESENTATION OF THE PEOPLE (ABSENT VOTING AT LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2026

SSI 2026/263

The above instrument was made in exercise of the powers conferred by sections 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 and all other powers enabling the Scottish Ministers to do so.

The instrument is subject to *negative procedure*.

Summary Box

Purpose of the instrument.

These Regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 ("the 2007 Regulations"). They supplement a change made by the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 (reference SSI 2026/251).

The earlier regulations (SSI 2026/251) set out the additional information required for an application for an emergency proxy to be made where the applicant cannot vote in person at an election because they will be acting as a companion for another person who will be receiving medical care or treatment on the date of the election. However, the earlier regulations (SSI 2026/251) did not set the intended deadline for applications.

Regulation 2 of these Regulations amends regulation 11 of the 2007 Regulations to set a deadline of 5pm on the day of poll for applications for a proxy vote for a particular election 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.

This 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 2007 Regulations 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, these Regulations will apply to any election for which the date of the poll is on or after 6 May 2027.

4. These Regulations are part of a suite of secondary legislation changes made ahead of the 6 May 2027 elections. The other four measures were all laid on 4 September 2026: the Scottish Local Government Elections Amendment Order 2026, the Scottish Local Government Elections (Election Agents, Expenses and Publication of Information) Amendment Order 2026, the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2026 and the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026.

5. These Regulations address an omission identified in the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026.

6. Regulation 3 of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 made provision for emergency applications to vote by proxy at a particular election.

7. The Electoral Commission and Electoral Registration Officers had asked the Scottish Government to consider expanding the categories of voters who are entitled to apply for an emergency proxy to include those who find themselves unable to vote in person, because they are acting as a companion for someone who needs to be accompanied to an unplanned medical appointment. In particular, this affects those who care for young or older people. This policy change was discussed in the Electoral Reform Consultation (see Consultation section) and was supported by 61% of respondents, including 100% of organisations. It was adopted in 2025 in respect of Scottish Parliament elections[1].

8. The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 therefore amended regulation 10 of the 2007 Regulations to set out the additional information required by anyone seeking an emergency proxy due to be unable to vote at Scottish local government elections in person, due to them accompanying another person to receive medical care or treatment. The person requesting a proxy must state the reasons why they were unable to make the application, 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.

9. The intention in presenting the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 was that, in line with other applications for an emergency proxy, it would enable such applications to be made until 5 pm on the date of the poll. Unfortunately, the necessary provision was not included. Because of that omission, applications would instead have to be made by 5 pm on the 6th day before the date of the poll (the 'normal' date for non-emergency proxy vote applications). This effectively means that new provision could not be used, as it was intended for situations arising after 5 pm on the 6th day before day of the poll).

10. The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment (No. 2) Regulations 2026 rectifies this omission. They make provision to allow people accompanying another person who will be receiving medical

[1] See Article 15: https://www.legislation.gov.uk/ssi/2025/313/pdfs/ssipn_20250313_en_001.pdf

care or treatment to apply to vote by proxy up to 5pm on polling day. This is achieved by amending regulation 11 of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007.

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

11. 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 Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment (No. 2) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

13. The Scottish Government's Electoral Reform Consultation ran between 14 December 2022 and 15 March 2023. The consultation requested views on a number of issues, including proxy voting for carers.

14. 517 responses to the consultation were received, 94% from individuals, and 6% from organisations. The Scottish Government published an independent analysis of the consultation on 31 July 2023. Copies of the consultation, responses and the analysis are available on the Scottish Government's website.

15. Electoral Administrators, including returning officers and Electoral Registration Officers, and other external stakeholders have been involved in discussions on relevant aspects of these Regulations.

16. As well as the general consultations, the following bodies and stakeholders were specifically consulted during the finalisation of the draft Regulations:

- Electoral Commission
- Electoral Management Board for Scotland
- Association of Electoral Administrators
- Electoral Registration Committee of the Scottish Assessors Association
- COSLA
- Scottish Parliament Political Parties Panel
- Scottish Parliament officials
- The Information Commissioner

17. The responses to these consultations have helped informed the content of these Regulations.

18. The Electoral Commission were consulted during the drafting of these Regulations.

Impact Assessments

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

20. An Equalities Impact Assessment (EQIA) has been prepared, outlining the impacts on groups with protected characteristics. There is minimal differential impact on these groups, and where there are differences, the EQIA finds that there is a positive impact.

21. The Scottish Government view is that these Regulations 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)

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

Financial Implications

23. Local authorities are responsible for meeting the cost of Local Government elections from within their overall budget. These Regulations are not expected to result in any significant increased costs.

Scottish Government
Directorate for Constitution

September 2026