POLICY NOTE

THE REPRESENTATION OF THE PEOPLE (ABSENT VOTING AT LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) AMENDMENT REGULATIONS 2025

SSI 2025/263

This instrument was made in exercise of the powers conferred by sections 22(3) and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 and all other powers enabling them to do so. The instrument is subject to negative parliamentary procedure.

Summary Box

Where a voter with a postal or proxy vote's signature held on record is more than 5 years old and the voter does not provide a fresh signature sample to their Electoral Registration Officer (ERO) when requested, proxy or postal voting arrangements (called 'absent voting') come to an end. These Regulations apply to absent votes granted for an indefinite period or a period in excess of 5 years, where a new signature sample is due to be requested before 7 May 2026. The regulations/order disapply the requirement on the ERO to request a fresh signature by 7 May 2026. The effect of this is that these absent votes will continue in the absence of a fresh signature in 2026 with the next signature refresh being required by 31 January 2027.

Policy Objectives

Background

For Scottish Parliament elections and council elections, voters can have a postal or proxy vote for an indefinite or an extended period, but their local Electoral Registration Officer will contact them to refresh their signature sample every five years. If a fresh signature sample is not provided, then the absent voting arrangement will cease (note that there are special arrangements if a person is unable to provide a signature sample).

An estimated 75,000 voters are due to be asked to refresh their signature sample by 31 January 2026 in order to retain a continuing absent vote for Scottish Parliament and Scottish local government elections. This is currently a paper-based process. If a new signature sample is not provided, the absent vote will cease.

At the same time, between 750,000 and 800,000 UK Parliament postal votes for voters in Scotland are due to expire on 31 January 2026 if not renewed. These voters can either apply using a paper form[1] for all elections or for UK Parliament elections only using the Online Absent Voting Application portal (OAVA).

There is concern that many of the voters due to refresh their signature for Scottish Parliament and local elections may incorrectly think that a reapplication via OAVA for a UK Parliament absent vote was the only activity required to vote by post or proxy in the Scottish Parliament election on 7 May 2026.

[1] For example: https://www.electoralcommission.org.uk/sites/default/files/2025-08/PO-S_PostalScotland2025_form.pdf

These Regulations (and the closely related Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025) seek to alleviate this issue by extending local government postal and proxy votes by temporarily disapplying the requirement for Electoral Registration Officers to send a notice requesting a fresh signature from a person entitled to vote by post or proxy at local government elections in Scotland and whose signature on record is more than 5 years old. This requirement is temporarily disapplied where the notice would otherwise be sent by 7 May 2026. The Electoral Registration Officer must send a signature refresh request to that person by 31 January 2027 . It is hoped that this will reduce scope for voter confusion and the potential for people having to suddenly seek an absent vote in spring 2026. It will also save voters from providing a new signature sample before the election.

A very similar approach - of extending extant postal (but not proxy) votes - was applied by the UK Government ahead of the 2024 UK Parliament General Election. It extended postal votes due for a signature refresh over 2023-25 to 31 January 2026[2]. The UK Government at that time sought to bring certain indefinite proxy votes to an end as part of the transition to the OAVA system[3].

Although the Scottish Government is actively pursuing application of the OAVA system to Scottish Parliament and local government elections, it is considered that application of these Regulations to all absent voters held on an indefinite or extended period would be helpful to voters ahead of the May 2026 election.

Further detail on plans in relation to OAVA is available in the Scottish Government's Legislative Consent Memorandum to the Absent Voting (Elections in Scotland and Wales) Bill.[4]

The Regulations

These Regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 ("the 2007 Regulations"). The 2007 Regulations apply where a postal or proxy vote is being or has been sought in respect solely of local government elections in Scotland or of a particular local government election in Scotland. Regulation 15A applies in relation to absent votes for an indefinite or particular period (where that period is in excess of 5 years).

A separate instrument, the Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 makes similar provision in relation to absent votes for an indefinite or particular period in respect of Scottish Parliament elections and where a postal or proxy vote is being sought or has been sought in respect of UK parliamentary elections alongside local government elections in Scotland.

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[2] See the comments by Lord Mott in the House of Lords on 19 September 2023: https://hansard.parliament.uk/Lords/2023-09-19/debates/237A7553-A492-416B-9AA1-979158DEFCE2/RepresentationOfThePeople%28PostalAndProxyVotingEtc%29%28Amendment%29Regulations2023

[3] See the Explanatory Note to the Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2023: https://www.legislation.gov.uk/uksi/2023/1147/pdfs/uksiem_20231147_en_001.pdf

[4] https://www.parliament.scot/bills-and-laws/legislative-consent-memorandums/absent-voting-elections-in-scotland-and-wales-bill

Overall, the changes apply to any indefinite absent votes for Scottish Parliament and local government elections where the ERO would otherwise be required to send a notice in writing to an absent voter before 7 May 2026 requesting a signature refresh. That requirement is instead extended to 31 January 2027.

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

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 Scottish Ministers certify that, in their view, the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

The Scottish Government has consulted with the UK and Welsh Governments, the Electoral Commission, the Electoral Management Board for Scotland and the Electoral Registration Committee of the Scottish Assessors Association in preparing this statutory instrument.

The proposed extension was also recommended by the Association of Electoral Administrators in its New Blueprint for a Modern Electoral Landscape in February 2025[5].

Impact Assessments

A combined Equality Impact Assessment on this instrument and the closely related Absent Voting at Scottish Parliament and Local Government Elections (Signature Refresh) (Miscellaneous Amendment) (Scotland) Order 2025 has been prepared.

A Children's Wellbeing Impact Assessment has been prepared.

Financial Effects

Removing the requirement for EROs to write to 75,000 voters ahead of 7 May 2026 has the potential to deliver some cost savings to Scotland's 16 EROs. However, a communication would not have been necessary to all of those voters: any voter who also received a reminder to reapply for a postal vote for UK Parliament elections and then chose to use a combined paper-based application to vote by post in all elections would not have then received a refresh reminder in respect of their Scottish Parliament and local government postal vote.

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[5] See Recommendation 9a: https://www.aea-elections.co.uk/wp-content/uploads/2025/03/AEA-Blueprint-2025.pdf

It is intended that the OAVA system will be available to voters before 31 January 2027, and so change the way in which postal vote applications occur. However, that is not yet as set out in law. Without an OAVA go live, any voter whose signature refresh is extended as a result of this SSI will receive a communication from their ERO in the months prior 31 January 2027.

Scottish Government
Constitution Directorate

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