POLICY NOTE

THE SCOTTISH ELECTIONS (REPRESENTATION AND REFORM) ACT 2025 (COMMENCEMENT NO. 1 AMENDMENT AND COMMENCEMENT NO. 2) REGULATIONS 2025

SSI 2025/260 (C. 21)

The above instrument was made in exercise of the powers conferred by section 73 of the Scottish Elections (Representation and Reform) Act 2025. The instrument is not subject to any parliamentary procedure.

Summary Box

These Regulations commence provisions in the Scottish Elections (Representation and Reform) Act 2025 ("the 2025 Act")[1]. The commenced provisions will make changes in relation to Scottish Parliament and Scottish local government elections. The provisions commenced concern the Electoral Management Board for Scotland (EMB) and provisions on digital imprints, where commencement timings set out in earlier commencement regulations are adjusted.

Policy Objectives

The 2025 Act sets out a number of changes in respect of Scottish Parliament and local government elections in Scotland.

The Scottish Elections (Representation and Reform) Act 2025 (Commencement No. 1) Regulations 2025[2] set out a scheme for commencement of most of the 2025 Act over three dates (14 April 2025, 1 August 2025 and 1 October 2025). The only provisions where commencement was not arranged were sections 69 to 71 in relation to the EMB.

The EMB provisions in sections 69 to 71 of the 2025 Act concern the EMB becoming a public body in its own right, supervised by the Scottish Parliament as a body corporate which will involve, amongst other things the EMB submitting its budget to the Parliament rather than Scottish Ministers. Both the EMB and parliamentary officials have requested 1 April 2026 for the commencement of the provisions making the EMB a body corporate.

The Regulations also adjust the commencement date for sections 47 to 57 and 59 of the 2025 Act from 1 October to 17 November. These provisions concern the requirement for a digital imprint for electronic campaign material. They create a 'bolt on' to the existing digital imprints regime set out in the Elections Act 2022. This additional provision requires an imprint on unpaid for material by third party organisations who are not registered campaigners.

Section 58 of the 2025 Act requires the Electoral Commission to produce statutory guidance on the use of digital imprints. This guidance is important for anyone seeking to ensure compliance with the regime. Failure to comply with the digital imprints requirements in the

[1] https://www.legislation.gov.uk/asp/2025/4/contents/enacted
[2] https://www.legislation.gov.uk/ssi/2025/106/contents/made

2025 Act is a criminal offence. The Commission presented this guidance, along with a statutory Code for third party campaigners and some non-statutory guidance on 14 August.[3]

The statutory guidance on digital imprints will be laid in draft before Parliament for 40 sitting days. If Parliament does not annul the guidance, it is planned to come into force on 17 November. The modification to the commencement of sections 47 to 57 and 59 of the 2025 Act to 17 November seeks to align with this 40 day period and the coming into force of the Commission's guidance.

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

Consultation
The policy objectives of the 2025 Act were subject to parliamentary scrutiny as a part of the parliamentary process for the 2025 Act. The Policy Memorandum[4] for the Bill that preceded the 2025 Act outlined the results of the Government consultation exercise conducted in relation to electoral reform held over 2022-23[5]. Commencement as set out in these Regulations is a result of discussion on timing with the Electoral Commission and other electoral professionals. The adjustment of commencement for sections 47 to 57 and 59 in relation to digital imprints has been agreed with the Electoral Commission.

A full list of those consulted and who agreed to the release of consultation information is attached to the consultation report published on the Scottish Government website, it includes the Electoral Commission, COSLA and the Electoral Management Board for Scotland.

The Electoral Commission has separately consulted upon its statutory guidance on the use of digital imprints.

Impact Assessments

An Equality Impact assessment on the overall policy objectives of the 2025 Act was conducted in 2023 and is available at the following link:

Equality Impact Assessment[6]

Financial Effects

The financial effects of the 2025 Act are detailed in the Financial Memorandum prepared in respect of the Bill that preceded the 2025 Act[7].

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[3] https://www.electoralcommission.org.uk/statutory-guidance-imprints-non-party-campaigners-scottish-parliamentary-and-council-elections
[4] https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/scottish-elections-representation-and-reform-bill/introduction/policy-memorandum-accessible.pdf
[5] https://www.gov.scot/publications/scottish-government-response-results-electoral-reform-consultation-2022-23/
[6] https://www.gov.scot/publications/scottish-elections-representation-reform-bill-equality-impact-assessment-results/pages/1/
[7] https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/scottish-elections-representation-and-reform-bill/introduction/financial-memorandum-accessible.pdf

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