POLICY NOTE

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

SSI 2025/106 (C. 10)

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. This includes candidacy rights, enabling provision in relation to disqualifying MPs councillors and members of the House of Lords from being MSPs, provision on disqualification from elected office, campaign finance, rescheduling of elections, ballot papers, candidate and agent addresses, election pilots, digital imprints, boundaries, and the Electoral Commission.

The rest of the 2025 Act, focused on the Electoral Management Board for Scotland (EMB), will be commenced by a separate instrument at a later date.

Policy Objectives

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

These Regulations will commence the following provisions of the 2025 Act over three dates (14 April 2025, 1 August 2025 and 1 October 2025), In general, the approach is to commence most provisions on the latter of those 3 dates. This is in order to provide time to any affected stakeholders to familiarise themselves with the changes.

Commencement on the earliest date (14 April 2025) has been adopted where circumstances permit, either to support current activities or to make available enabling powers which have no immediate effect but can be used in future work. This includes enabling provisions such as sections 3, 4 and 5 on disqualification, which create powers for further legislation and are relevant to a Government consultation conducted earlier in 2025[2]. Sections 22 and 25 in relation to election campaigns are relevant to the Electoral Commission, which has been consulted on the April date. Sections 31 and 34 will permit the rescheduling of a by-election in emergency circumstances. Commencement of section 35 begins the maximum five year period in which Scottish Ministers must conduct a review of the order of candidates on ballot papers used at elections. Section 39 to 44 concern elections pilots and democratic

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

[2] https://consult.gov.scot/communications-and-ministerial-support/dual-mandates-in-the-scottish-parliament/#:~:text=The%20position%20agreed%20by%20the%20Scottish%20Parliament%20in,in%20respect%20of%20MSPs%20who%20are%20also%20Councillors.

engagement grants and permit the activity set out in those sections to occur. Section 45 modifies the existing power of the Scottish Ministers to make provision in secondary legislation in respect of local government elections. Sections 58, 60 and 61 concern aspects of Part 8 of the Act (Information to be included with certain electronic material at Scottish elections) where commencement in advance of the rest of the Part is need to ensure guidance is in place to support the operation of the other provisions of the Part. Sections 64, 65, 66, 67 and 68 concern the oversight of the Electoral Commission and the commencement of these provisions has been discussed with the Commission.

Provisions commenced on 1 August 2025 focus on instances where guidance and supporting materials may have to be revised as a result of the Bill's changes (e.g. the Electoral Commission's guidance for candidates for election[3]). This includes changes made by sections 1 and 2 in relation to the candidacy rights of foreign nationals in Scottish Parliament and local government elections and sections 6 to 20 and the schedule on disqualification from elected office. Commencement of sections 21, 23, 24 and 26 on campaign finance will allow stakeholders time to prepare ahead of the 2026 Scottish Parliament election to which those new campaign finance requirements will apply.

Commencement on 1 October 2025 has been set for the remaining provisions listed in the order. This is in order to provide several months for affected stakeholders to familiarise themselves with the changes.

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.

A full list of those consulted and who agreed to the release of this 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.

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:

[3] https://www.electoralcommission.org.uk/our-guidance/candidate-or-agent/scottish-parliamentary-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/

Equality Impact Assessment[6]

Financial Effects

The financial effects on the Scottish Government, local government and the Electoral Commission are detailed in the Financial Memorandum prepared in respect of the Bill that preceded the 2025 Act[7].

Scottish Government
Constitution Directorate

April 2025

[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