



# Scottish General Election (Coronavirus) Act 2021

2021 asp 5

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**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 23rd December 2020 and received Royal Assent on 29th January 2021**

An Act of the Scottish Parliament to provide for measures relating to protection against coronavirus to apply to the ordinary general election for membership of the Scottish Parliament due to be held on 6 May 2021.

## *Application of Act*

### **1 Application of this Act to 2021 election** **S**

This Act applies in relation to the ordinary general election for membership of the Scottish Parliament the poll for which is, on the day on which this Act comes into force, due to be held on 6 May 2021 (“the 2021 election”).

## *Disapplication of existing law*

### **2 Disapplication of section 2 of the Scotland Act 1998** **S**

Subsections (3) to (5ZA) of section 2 of the Scotland Act 1998 do not apply in relation to the 2021 election.

## *Postal voting arrangements for 2021 election*

### **3 Closing date for application to vote by post or amend existing absent vote arrangements** **S**

- (1) In relation to the 2021 election, paragraph 9 of schedule 3 of the 2015 Order has effect in accordance with the modifications in subsections (2) and (3).
- (2) Sub-paragraph (1) has effect as if for the word “eleventh” there were substituted “twenty-first”.

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- (3) Sub-paragraph (5) has effect as if for the word “eleventh” there were substituted “twenty-first”.
- (4) Subsections (1) to (3) are subject to subsection (5).
- (5) The Scottish Ministers may by regulations provide that in relation to the 2021 election, paragraph 9(1) or (5) of schedule 3 of the 2015 Order is to be read, in relation to a particular type of application, as if for the numbered day for the time being specified there were substituted a different numbered day.
- (6) But the power in subsection (5) may be exercised only so as to specify a day numbered twenty-one or less.

#### **4 Postal voting applications: report at closing date S**

- (1) The Scottish Ministers must prepare a report, using the most recent information available as at 7 April 2021, setting out—
  - (a) the number of persons who are registered to vote at the 2021 election,
  - (b) the number of persons who have been granted a postal vote for the election, and
  - (c) the number of applications for a postal vote for the election which have been received but not determined.
- (2) The report—
  - (a) must specify any funding provided to local authorities by the Scottish Ministers for the purpose of ensuring that electoral registration officers have adequate resources to deal with any increase in applications for a postal vote for the 2021 election arising as a result of coronavirus,
  - (b) may include such further information relating to postal voting at the 2021 election as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must prepare and publish the report and lay it before the Scottish Parliament as soon as reasonably practicable after 7 April 2021.
- (4) In subsection (2)(a), “electoral registration officer” means an officer appointed under section 8(3) of the Representation of the People Act 1983.

#### **5 Power to provide for all-postal vote S**

- (1) The Scottish Ministers may, if they consider it necessary for a reason relating to coronavirus, by regulations provide that the poll at the 2021 election is to be held solely by means of postal voting.
- (2) Regulations under subsection (1) may make such provision as to the arrangements for the poll as the Scottish Ministers consider appropriate.
- (3) Regulations under subsection (1) may modify any enactment (including section 3(2) and (3) of, but excluding the rest of, this Act).
- (4) Regulations under subsection (1) are subject to the affirmative procedure.
- (5) When laying draft regulations under subsection (4) before the Scottish Parliament, the Scottish Ministers must at the same time lay a statement of the reasons for the

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regulations, including information on the responses received from the persons listed in subsection (6).

- (6) Before laying draft regulations under subsection (4), the Scottish Ministers must consult—
- (a) the Presiding Officer,
  - (b) the Electoral Commission,
  - (c) the convener of the Electoral Management Board for Scotland, and
  - (d) the Chief Medical Officer of the Scottish Administration.

#### *Other arrangements for 2021 election*

### **6 Dissolution of current Parliament** **S**

- (1) For the purpose of the holding of the poll for the 2021 election, the Scottish Parliament is dissolved on 5 May 2021.
- (2) But subsection (1) is subject to section 11(8).

### **7 Dissolution of current Parliament: consequential modifications** **S**

- (1) In relation to the 2021 election, the 2015 Order has effect in accordance with the modifications in this section.
- (2) In article 80(1), the provision as to when a person becomes a candidate in relation to a Scottish parliamentary election has effect as if for the words from “ on the date of ” to “issued” there were substituted “ on the day which is 27 days before 6 May 2021, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time) ”.
- (3) Paragraph 1(2)(a)(i) of schedule 1 has effect as if for the words “the date of the dissolution of the Parliament as provided for at section 2(3)(a) of the 1998 Act” there were substituted “ the day which is 27 days before the day of the poll at the election, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time) ”.

### **8 Power to provide for polling on additional days** **S**

- (1) If—
  - (a) the convener of the Electoral Management Board for Scotland recommends to the Scottish Ministers that polling at the 2021 election should take place on one or more specified days, as well as on the day of the poll, and
  - (b) the Scottish Ministers consider that giving effect to that recommendation is necessary for a reason relating to coronavirus,the Scottish Ministers may by regulations give effect to that recommendation.
- (2) A day may be specified by the convener under subsection (1) only if it is—
  - (a) consecutive to the day of the poll or any other day so specified (unless the convener considers that there is a reason to recommend a break in polling days), and
  - (b) one of the 8 days immediately succeeding the day of the poll.

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- (3) In subsections (1) and (2) , “the day of the poll” means 6 May 2021 (or, where the Presiding Officer has exercised the power conferred by section 11(1), the day fixed by the Presiding Officer under that section for the holding of the poll for the 2021 election).
- (4) Regulations under subsection (1) may specify particular days (or times on particular days) when specified descriptions or categories of persons entitled to vote in person at the 2021 election (whether as electors or as proxies) may vote.
- (5) Regulations under subsection (1) are subject to the affirmative procedure.
- (6) When laying draft regulations under subsection (5) before the Scottish Parliament, the Scottish Ministers must at the same time lay a statement of the reasons for the regulations, including information on the responses received from the persons listed in subsection (7).
- (7) Before laying draft regulations under subsection (5), the Scottish Ministers must consult—
  - (a) the Presiding Officer,
  - (b) the Electoral Commission,
  - (c) the convener of the Electoral Management Board for Scotland, and
  - (d) the Chief Medical Officer of the Scottish Administration.
- (8) Regulations under subsection (1) are without prejudice to the exercise (or, as the case may be, re-exercise) of the power conferred by section 11(1).
- (9) The Scottish Ministers may by regulations modify the meaning of a relevant reference so far as it applies in relation to the 2021 election if regulations under subsection (1) are in effect.
- (10) Otherwise, the meaning of a relevant reference is not, in relation to the 2021 election, affected by regulations under subsection (1).
- (11) In subsections (9) and (10) a “relevant reference” means a reference (however expressed) in the 2015 Order or any other enactment or document to the day or date of the poll at an election for membership of the Scottish Parliament.

#### *Arrangements for new Parliament*

### **9 First meeting of new Parliament and choice of new First Minister S**

- (1) The Presiding Officer must, after consultation with the Electoral Commission and the convener of the Electoral Management Board for Scotland, fix the day on which the Scottish Parliament is first to meet after the poll for the 2021 election.
- (2) The day fixed under subsection (1) must be as soon as reasonably practicable after the poll.
- (3) If the day fixed under subsection (1) is not within the period of seven days beginning immediately after the day of the poll, any relevant additional days are to be disregarded for the purpose of the calculation of the period allowed, under section 46 of the Scotland Act 1998, for the Parliament to nominate one of its members for appointment as First Minister after the poll for the 2021 election.

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(4) In subsection (3)—

“the day of the poll” means 6 May 2021 (or, where the Presiding Officer has exercised the power conferred by section 11(1), the day fixed by the Presiding Officer under that section for the holding of the poll for the 2021 election),

a “relevant additional day” means any day in the period—

- (a) beginning with the eighth day immediately after the day of the poll, and
- (b) ending with the day fixed under subsection (1).

## 10 Election of new Presiding Officer **S**

In relation to the 2021 election, section 19(1A)(b) of the Scotland Act 1998 has effect as if for the words “within the period of 14 days beginning immediately after” there were substituted “as soon as reasonably practicable after”.

*Reserve power of Presiding Officer to postpone 2021 election*

## 11 Power of Presiding Officer to postpone election **S**

- (1) If the Presiding Officer considers it necessary or appropriate for any reason to do so, the Presiding Officer may fix a day that is after 6 May 2021 for the holding of the poll for the 2021 election.
- (2) Subsection (3) applies if the power conferred by subsection (1) is to be exercised for a reason relating to coronavirus.
- (3) Before exercising the power, the Presiding Officer must be satisfied that the Scottish Parliament could not safely meet for the purpose of passing a Bill for an Act to change the day for the holding of the poll.
- (4) The Presiding Officer must under subsection (1) fix as the day for the poll the earliest day which the Presiding Officer considers reasonably practicable, having regard to the reason for the exercise of the power.
- (5) As soon as reasonably practicable after exercising the power conferred by subsection (1), the Presiding Officer must publish on the website of the Scottish Parliament a statement of—
  - (a) the day fixed for the holding of the poll, and
  - (b) the reason for the exercise of the power.
- (6) The power conferred by subsection (1)—
  - (a) may be exercised more than once, but
  - (b) may not be exercised so as to fix a day that is after 5 November 2021.
- (7) Before exercising the power conferred by subsection (1), the Presiding Officer must consult—
  - (a) the Scottish Ministers,
  - (b) the Electoral Commission,
  - (c) the convener of the Electoral Management Board for Scotland, and
  - (d) the Chief Medical Officer of the Scottish Administration.

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- (8) If the Presiding Officer exercises the power conferred by subsection (1), the Scottish Parliament is dissolved on the day immediately before the day fixed for the holding of the poll, unless subsection (9) applies.
- (9) This subsection applies where, before the day on which the Scottish Parliament is due to be dissolved in accordance with subsection (8), the Presiding Officer exercises the power conferred by subsection (1) again (and, accordingly, subsection (8) applies to that exercise of the power in turn).

### *Supplementary*

## **12 Effect of Act on existing power to make provision about elections** **S**

This Act does not affect the generality of the power conferred on the Scottish Ministers by section 12(1) of the Scotland Act 1998.

### *Final provisions*

## **13 Interpretation** **S**

In this Act—

- “the 2015 Order” means the Scottish Parliament (Elections etc.) Order 2015 (S.S.I. 2015/425),
- “the 2021 election” has the meaning given by section 1,
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),
- “the Presiding Officer” means the Presiding Officer of the Scottish Parliament.

## **14 Ancillary provision** **S**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, in connection with, or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).

## **15 Commencement** **S**

- (0) This Act comes into force on the day after Royal Assent.

## **16 Short title** **S**

The short title of this Act is the Scottish General Election (Coronavirus) Act 2021.

**Changes to legislation:**

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