

SCOTTISH GENERAL ELECTION (CORONAVIRUS) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Postal voting arrangements

Section 3: Closing date for application to vote by post or amend existing absent vote arrangements

8. The effect of section 3 is to bring forward the deadline for applications for a postal vote for the 2021 election to the twenty-first day before the polling day (for the election held on 6 May, this would mean the deadline is expected to be 6 April). Under paragraph 9 of schedule 3 of the Scottish Parliament (Elections etc.) Order 2015 (S.S.I. 2015/425) (“the 2015 Order”) the deadline is normally the eleventh day before the polling day. The purpose of this provision is to allow for more time to process what is expected will be a much higher number of applications than usual due to the effects of the coronavirus pandemic.
9. Subsection (5) allows the Scottish Ministers to change the deadline by regulations – but under subsection (6) this can only be used to move the deadline closer to the polling day.

Section 4: Report on uptake of postal voting at closing date

10. This section requires the Scottish Ministers to report to the Parliament on the uptake of postal voting for the 2021 election as at 7 April 2021 (i.e. the day after the deadline which is expected to apply under section 3 if the election proceeds on 6 May).
11. By subsection (1), the report must set out the number of persons who are registered to vote at the 2021 election; the number of persons who have been granted a postal vote at the election; and the number of pending applications for a postal vote. The subsection does not place any new duties on electoral registration officers (the officials who administer applications for postal votes) to collate or provide information; instead, it merely requires the Scottish Ministers to use the most recent information which is available to them.
12. The report must also specify any funding provided by the Scottish Ministers to local authorities for the purpose of ensuring that electoral registration officers have adequate resources to deal with any increase in applications for postal votes resulting from the pandemic (see subsection (2)(a)).
13. Subsection (3) provides that the report must be published and laid before the Parliament by Ministers as soon as reasonably practicable after 7 April 2021.

Section 5: Power to provide for all-postal vote

14. This section confers a regulation-making power on the Scottish Ministers to make provision for the 2021 election to be conducted solely by means of postal voting. No physical polling would take place.
15. Subsection (3) would allow regulations made under subsection (1) to modify any enactment: including section 3(2) and (3) of the Act, which make provision relevant to postal voting as described above, but not including the rest of the Act.
16. The effect of subsection (4) is that regulations may be made only if a draft of the regulations has been laid before, and then approved by a resolution of, the Parliament. At the same time as laying draft regulations, the Scottish Ministers must – under subsection (5) – lay a statement of the reasons for the regulations.
17. Subsection (6) requires the Scottish Ministers to consult those persons listed before making regulations under this section. Information on what the consultees say must be included in the statement of reasons mentioned above.