

SCOTTISH GENERAL ELECTION (CORONAVIRUS) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Reserve power of Presiding Officer to postpone 2021 election

Section 11: Power of Presiding Officer to postpone election

40. This section gives the Presiding Officer the power to postpone the 2021 election by up to 6 months.
41. The Presiding Officer may only postpone the election if satisfied that it is necessary or appropriate to do so; and, additionally, if the power is to be exercised for a reason relating to coronavirus, if satisfied that the Parliament could not safely meet in order to pass a Bill to delay the election (the presumption being that it is Parliament first and foremost that should take the decision to delay).
42. Under subsection (4), the new date for the election must be as soon as reasonably practicable after the old date.
43. Where the power is exercised, subsection (5) requires the Presiding Officer to publish the new date for the election along with a statement of reasons for exercising the power – this information must be published on the Parliament’s website as soon as reasonably practicable.
44. Subsection (6)(a) allows for the power to be exercised multiple times (so long as the relevant conditions are met on each occasion). However the effect of subsection (6)(b) is that the power could not be used to postpone the election beyond 5 November 2021.
45. Subsection (7) also requires the Presiding Officer to consult those persons listed before exercising the power.
46. By the operation of subsection (8), the Parliament will automatically be dissolved on the day immediately before the new date fixed for the election – including after any re-exercise of the power to postpone. This is for the same reasons as those behind section 6 of the Act.