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Convener
Delegated Powers and Law Reform Committee

By email: DPLR.Committee@parliament.scot

26 August 2025

Dear Stuart

Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025

I am writing in relation to the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025, which is currently laid in Parliament.

Discussion between Scottish Government officials and Delegated Powers and Law Reform Committee legal advisors has highlighted a small error in the drafting of the Order that, if uncorrected, would undermine our objective that the change to the date of dissolution of the Parliament in Article 10 would have no impact on the timetable for the May 2026 Scottish Parliament election.

As such, in terms of Rule 10.8 of the Standing Orders of the Parliament my officials are contacting the Chamber Desk to request that the regulations be withdrawn, so that a correction can be promptly made. My officials are arranging for minor amendments to be prepared to the drafting, correcting the error so that the Order can be re-laid as soon as possible.

By way of background, the intention of the policy behind Article 10 of the Order is to move dissolution of the Parliament to a later date, from 28 working days before polling day (26 March 2026) to 20 working days before polling day (9 April 2026).

Article 9 (Meaning of “candidate”) and Article 12 (Supply of free copy of full register for electoral purposes) of the Order seek to avoid any impact by Article 10 on the electoral timetable in relation to when people become candidates and the point at which the electoral register is distributed. They do this by removing the link between those events and the date of dissolution and instead time them for the date at which dissolution *would have occurred* (had it not been changed by Article 10). The goal is for people to become candidates and for

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the registers to issue on 26 March, the date on which dissolution would have occurred. The Order sought to do this by reference to “28 days” before polling day.

The drafting approach taken with Articles 9 and 12 means that the date of the election would not be considered in calculating the 28 day period. However, the provision in section 2(3)(a) of the Scotland Act 1998 which means that the day of the polling is to be counted was overlooked. As the Order stands, it will see people become candidates and the electoral register issued on 25 March rather than 26 March as was intended. While in practical terms this is unlikely to have an impact, I am keen for it to remain the case that the change to dissolution will not affect the electoral timetable.

As a result, the replacement version of the Order will contain references to 27 days rather than 28 days in Articles 9 and 12. For the avoidance of doubt, no change is required for Article 10.

We have also taken the opportunity to make a consequential change to some of the Forms set out in the Appendix of the Scottish Parliament (Elections etc.) Order 2015. This is consequential on the change to the deadline for applying for a replacement postal ballot from 10pm to 5pm as set out in Article 16 of the current Order. The need for this change arose following discussion with the Electoral Commission on the Order.

I appreciate that these changes will mean a technical breach of the laying convention, as there is a need for this Order to come into force by a specific date ahead of the 2026 election. While regrettable, I would suggest that the ability to respond to the helpful comments by the DPLRC has undoubtedly resulted in improved legislation.

I am writing in similar terms to the Standards, Procedures and Public Appointments Committee.

Yours



JAMIE HEPBURN

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