

## **LEGISLATIVE CONSENT MEMORANDUM**

### **Absent Voting (Elections in Scotland and Wales) Bill**

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2(ii). SO 29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru in relation to any UK Private Member’s Bill under consideration in the UK Parliament which makes provision in relation to Wales that has regards to devolved matters.
2. The Absent Voting (Elections in Scotland and Wales) Bill (“the Bill”) was introduced in the House of Commons on 16 October 2024. The Bill as amended in Public Bill Committee can be found at: [Absent Voting \(Elections in Scotland and Wales\) Bill - Parliamentary Bills - UK Parliament](#)

### **Policy Objectives**

3. The stated policy objectives of the Bill are to make new provision for and amend existing electoral law to make it easier and more convenient for voters in Scotland and Wales to apply for postal and proxy voting arrangements.

### **Summary of the Bill**

4. The Bill is a private member’s bill sponsored by Tracy Gilbert, the MP for Edinburgh North and Leith (“the Member”).
5. The key provisions of the Bill will:
  - a) Give Scottish and Welsh Governments concurrent powers (subject to obtaining Minister of the Crown consent to their exercise) with a Minister of the Crown to bring forward regulations to enable applications for postal and proxy votes for devolved elections to be made online using the UK Digital Service (“UKDS”).
  - b) Provide powers to the Scottish and Welsh Governments, which will later be used in secondary legislation, to include an identity verification requirement on absent voting applications. This is an upfront check at the point the postal or proxy vote application is made and would require the applicant to provide their National Insurance number, or alternative evidence if that check is unsuccessful.
  - c) Align postal voting renewal cycles for reserved elections and local government elections in Wales and Scotland. The cycle for renewing postal vote applications for reserved elections was changed by the Elections Act 2022, such that instead of having to refresh their

signature every 5 years, electors instead have to reapply for their postal voting arrangement approximately every 3 years. This Bill will bring renewals for devolved local government elections in line with reserved elections.

- d) Provide powers to make transitional provisions concerning individuals with existing absent voting arrangements at the point the Bill takes effect.
6. Officials from the Welsh Government, Scottish Government and UK Government have been in regular contact during the development of the Bill. The Interministerial Group on Elections and Registration agreed at its 12 February 2025 meeting that extending online absent vote applications to devolved polls was a vital shared goal. Engagement will continue at an official and Ministerial level where necessary.
7. I wrote to the Member on 19 December 2024 expressing support for the Bill.
8. The Bill largely amends existing primary legislation which includes:
- a) Rules relating to the UK Digital Service, and certain local elections (Representation of the People Act 1983 (“the 1983 Act”))
  - b) Rules relating to absent voting arrangements (Representation of the People Act 2000 (“the 2000 Act”))
  - c) Powers relating to elections to the Scottish Parliament (The Scotland Act 1998)
  - d) Powers relating to elections to Senedd Cymru (The Government of Wales Act 2006 (“GoWA”))

### **Provisions in the Bill for which consent is required**

9. I consider that the test in SO 29 is met in relation to the Bill and that the consent of the Senedd is required in respect of clauses 1, 3 and 4 of the Bill which make provision in relation to Wales with regard to devolved matters.
10. Clause 1 amends:
- a) the 1983 Act, by inserting a new paragraph 5ZB into Schedule 2, to give the Scottish and Welsh Ministers concurrent powers with a Minister of the Crown to bring forward regulations to enable applications for postal and proxy votes for local government elections in Scotland and Wales to be made online using the UKDS (clause 1(1) and (3) of the Bill). Such regulations made by the Scottish and Welsh Ministers require the prior agreement of a Minister of the Crown. These provisions have an impact on the

delivery and operation of local government elections in Wales in terms of how absent voting applications for such elections are dealt with, impacting on devolved matters;

- b) paragraph 1 of Schedule 2 to 1983 Act to provide powers to the Scottish and Welsh Ministers, which will later be used in secondary legislation, to include an identity verification requirement on absent voting applications (clause 1(1) and (2) of the Bill). This amendment is not purely about the UKDS, it is about absent voting more generally. The main purpose of these provisions is to provide a regulation-making power so that regulations can be made to provide a means for registration officers to verify identity and information provided in connection with absent voting applications generally to allow for verification of such applications. These provisions are within the legislative competence of the Senedd; and
  - c) Schedule 4 to the 2000 Act to amend the postal voting renewal cycles for local government elections in Wales and Scotland, so that renewals for such elections are brought in line with reserved elections (clause 1(4)-(6) of the Bill). These provisions relate to the procedure for granting a postal vote, and the period for which that vote is valid, in local government elections in Wales and such provisions are within the legislative competence of the Senedd.
11. Clause 3 amends GoWA, by inserting a new section 13B, to give the Welsh Ministers concurrent powers with a Minister of the Crown to bring forward regulations to enable applications for postal and proxy votes for Senedd elections in Wales to be made online using the UKDS. Regulations made by Welsh Ministers under the new section 13B require the prior agreement of a Minister of the Crown and are subject to the draft affirmative procedure in the Senedd. These provisions have an impact on the delivery and operation of Senedd elections in Wales in terms of how absent voting applications for such elections are dealt with, impacting on devolved matters.
12. Clause 4 makes provision about the commencement of the Bill, and this includes a power at clause 4(2) of the Bill for the Secretary of State to determine the day on which clause 1(4) to (6) of the Bill (which are the amendments to Schedule 4 to the 2000 Act to change the postal vote renewal cycle) will come into force by regulations made using a statutory instrument. Clause 4 also provides powers for the Secretary of State to make such transitional and/or savings provisions as they consider appropriate in connection with the coming into force of any provision in the Bill. The commencement powers in clause 4(2) relate to the commencement of clause 1(4)–(6) of the Bill, those provisions are entirely devolved and are within the legislative competence of the Senedd. There is no requirement for the Welsh Ministers to provide their consent to the exercise of this power by the Secretary of State. The transitional powers introduced in Clause 4 are exercisable by the Secretary of State and can be exercised in relation to both reserved and devolved areas and relate to

other clauses in the Bill which are within the legislative competence of the Senedd or at the very least make provision in relation to Wales that has regard to the devolved matter of elections.

13. For the reasons set out above, Clauses 1, 3 and 4 are considered to make relevant provisions in relation to Wales that have regard to devolved matters and therefore an LCM is required to be laid in respect of these provisions under SO 29.

#### **UK Government view on the need for consent**

14. In the Explanatory Notes to the Bill, the Member confirms that the legislative consent motion process is engaged (in respect of Wales) only by clauses 1, 3 and 4 of the Bill. The Explanatory Notes acknowledge that the Bill applies to the decision-making of Devolved Administrations and can be said to modify executive competence.
15. The Parliamentary Under-Secretary of State for Homelessness and Democracy wrote to me on 20 February to confirm that they agree with this assessment that clauses 1, 3 and 4 would engage the legislative consent motion process.

#### **Reasons for making these provisions for Wales in the Absent Voting (Elections in Scotland and Wales) Bill Welsh Government position on the Bill**

16. The Bill will extend access to the existing Online Absent Voting Application ("OAVA") system to Welsh and Scottish elections. The system provides a convenient route for the public to apply for a postal or proxy vote and correctly balances public accessibility and electoral security.
17. Extending the system to Welsh elections will also alleviate the administrative burden on electoral teams in Wales.
18. Although the powers to change rules for the elections covered by the Bill are devolved, the online applications process is part of the UKDS and operation of the UKDS is reserved to the UK Parliament and ministers in the UK Government. For the provisions to work, provisions need to be made in relation to the UKDS and without this the policy impact of the provisions is not achieved.
19. It would not be possible to extend the access of the current OAVA system, or to develop an independent system to similar affect, without access to the UKDS. A parallel system to the UKDS could be established for devolved registration purposes only, but this would be prohibitively expensive and create complexity for Electoral Registration Officers and confusion for voters.
20. The Bill makes amendments to the 1983 Act to provide powers to the Scottish and Welsh Ministers which will later be used in secondary

legislation to include an identity verification requirement on absent voting applications. The Bill also makes amendments to the 2000 Act, which for devolved local government elections currently allows for indefinite postal vote applications with a signature refresh provided every five years. Under the changes, a grant of an application to vote by post in relation to local government elections in Scotland or Wales may not exceed three years. These changes are required to ensure alignment with the UK Government and avoid conflicting schedules and requirements, making the OAVA system less confusing for voters and reducing the burden on electoral administrators. Although these changes would be within the legislative competence of the Senedd they would require an appropriate primary legislative vehicle to take them forward, which would not be possible within the timeframe required to introduce the system ahead of the 2026 Senedd elections. All of the amendments are required in order to provide a full set of regulations and to achieve full alignment with the UK Government, which is a requirement for using the UKDS for devolved absent voting applications and all of the provisions need to be in place so that the Welsh Ministers can make the relevant regulations to provide for OAVA for Welsh elections can be in place by no later than December 2025.

21. The interconnected nature of the relevant Welsh, Scottish and reserved administrative systems – specifically, the shared technical systems that operate both devolved and reserved elections - require these changes be taken forward at the same time in the same legislative instrument.

### **Financial implications**

22. Extending the OAVA system to devolved elections in Wales and Scotland will involve changes to the electoral management systems utilised by Local Authorities. It will also be necessary to make changes to internal systems operated by the UK Government.
23. The costs for these changes are estimated to be upwards for £2.4M. The amount payable by the Welsh Government will be subject to negotiation with suppliers and the division of cost with the Scottish Government.

### **Conclusion**

24. In my view it is appropriate to deal with these provisions in this UK Bill as the UKDS is essential to the operation of the OAVA system as envisaged. A single UK-wide application system is beneficial for both voters and electoral administration. This Bill allows for coordination and alignment between Welsh, Scottish and UK Governments.
25. Therefore, I recommend that the Senedd supports the proposals and gives its consent.

**Jayne Bryant MS**  
**Cabinet Secretary for Housing and Local Government**  
**25 June 2025**