

Supplementary Legislative Consent Memorandum

Representation of the People Bill

Background

1. This supplementary memorandum has been lodged by Jenny Gilruth MSP, Deputy First Minister and Cabinet Secretary for Finance and Local Government and is supported by Jamie Hepburn MSP, Minister for Parliamentary Business and Veterans in accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders. It should be read in conjunction with the Scottish Government's previous memorandums on the Bill, LCM-S6-74, available at [Representation of the People Bill \(session 6\)](#) and LCM-S7-7, available at [Representation of the People Bill | Scottish Parliament Website](#)

2. The Representation of the People Bill ("the Bill") was introduced by the UK Government in the House of Commons on 12 February 2026 and re-introduced on 14 May 2026. The Bill as originally introduced and as re-introduced is available on the UK Parliament website via this link: <https://bills.parliament.uk/bills/4080>. On 7 July the UK Government tabled 81 amendments¹ for consideration at Commons Report Stage, which was due to commence on 14 July, but has since been deferred until 2 September. The volume and complexity of those amendments meant it was not possible to complete the analysis on legislative consent in relation to 'relevant' amendments (i.e. those triggering the legislative consent process) within the usual two week period set out under Standing Orders. Most of the amendments are focused on the UK Government's response to the Rycroft Review into foreign interference in politics². Those amendments where the consent of the Scottish Parliament is required are discussed below.

3. The Scottish Government provided an initial Legislative Consent Memorandum on the Bill as originally introduced in February ("the first LCM") and a Supplementary Legislative Consent Memorandum in June ("the second LCM"), but has not so far set out a recommendation on consent.

4. The second LCM provided an assessment of the relevant amendments tabled by the UK Government on 13 March³ and 10 April⁴ and subsequently agreed at Committee stage in the House of Commons (prior to re-introduction). It described the substantive changes to Part 4 of the Bill on the regulation of campaign finance which

¹ [rop_rm_rep_0707.pdf](#)

² [The Rycroft Review: HM Government response - GOV.UK](#)

³ [representation_people_rm_pbc_0313.pdf](#)

⁴ [representation_people_rm_pbc_0410.pdf](#)

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trigger the requirement for legislative consent. The UK Government had written to the Scottish Ministers to explain its view that only certain amendments within Part 4 of the Bill on campaigns and political expenditure required the consent of the Scottish Parliament.

5. In the second LCM, the Scottish Government agreed with the UK Government that the amended clause 58 and new clause 63 of the Bill will require legislative consent as they make provision for a purpose within the Scottish's Parliament's legislative competence to the extent that they apply to elections within the devolved responsibility of the Scottish Parliament (i.e. Scottish Parliament and Scottish local government elections) and alter the executive competence of the Scottish Ministers.

6. The second LCM also noted that the UK Government considers that clause 62 (including Schedule 9), both as originally introduced and as amended, are for reserved purposes and do not engage the legislative consent process. However, the Scottish Government considers that these provisions require legislative consent as they make provision for a purpose within the Scottish Parliament's legislative competence to the extent that they apply to devolved referendums and local government elections in Scotland.

7. For ease of reference, the assessment set out in both the first and second LCM is updated in this supplementary memorandum, with positions on consent and additional commentary in relation to relevant amendments laid on 7 July following the Bill's re-introduction. Recommendations in favour of consent are made in relation to some provisions in Parts 2 and 3 of the Bill.

8. While it had been the Scottish Government's intention that this new supplementary LCM would address all of the new amendments and also provide a detailed assessment and recommendation on consent on the Bill as a whole, having engaged further in the detail of the new provisions significant aspects have been identified that require further detailed engagement with the UK Government. In order to aid Parliamentary scrutiny, the Scottish Government has set out, where possible, its position on consent both below and in the conclusion.

9. The Scottish Government's position on recommending consent in relation to the remaining relevant provisions of the Bill will be set out in a subsequent supplementary legislative consent memorandum(s). Further amendment of the Bill by the UK Government involving relevant amendments is anticipated in the autumn. That would again trigger a requirement for a supplementary LCM and it is anticipated that LCM would address any other outstanding consent issues.

Content of the Bill

10. The Bill covers a wide range of topics and whilst the Bill's territorial extent and application are complex, the Bill generally extends across the UK. The Explanatory

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Notes accompanying the Bill set out the UK Government's view of its purpose, which includes the following statement⁵:

- “1. This Bill amends existing electoral law and makes new electoral law provisions which aim to ensure that UK elections remain secure and protected against interference.
2. The Bill will allow the Government to meet its commitments to improve voter registration, address the inconsistencies in voter ID rules that prevent legitimate voters from voting, give 16- and 17-year-olds the right to vote in all elections, and to protect democracy by strengthening the rules around donations to political parties. The Bill also aims to deliver on several recommendations from the 2024 strategic review of electoral registration as outlined in the Government's report [*Restoring Trust in our Democracy: our strategy for modern and secure elections*](#).”

11. The Bill is in 7 Parts and 11 Schedules:

- Part 1 will lower the voting age for UK Parliament and other reserved elections to 16. This includes provisions for pre-registration from age 14, mechanisms to enable identity verification of young people, and safeguards to protect their data.
- Part 2 relates to electoral registration, including improving voter registration. This includes powers to test new approaches, including direct registration i.e. registration without the citizen having to make an application, with changes expected after testing has taken place. Part 2 also contains measures around modernising the Northern Ireland canvass, extending the length of the period for which a person can be registered anonymously, and removing the presumption that citizens will be added to the open register unless they opt out. Instead, they will not be added unless they actively opt in.
- Part 3 relates to the conduct of elections and contains measures to improve the electoral process. This includes provision on registration application deadlines in relation to an election and the responsibilities of Electoral Registration Officers (“EROs” or “registration officers”⁶). Part 3 also expands the list of acceptable voter ID for use by electors or their proxies voting in person at UK Parliamentary elections to include in-date bank cards issued by UK authorised card issuers which show the voter's name.
- Part 4 contains measures on political party finance. This includes risk-based due diligence guidance for political parties, restricting company donations to companies that have adequate connection to the UK or Ireland (for donations to Northern Ireland parties), and the introduction of stronger requirements for unincorporated associations. Part 4 also amends digital campaigning rules, including by applying digital imprint

⁵ [Representation of the People Bill - Explanatory Notes](#)

⁶ Electoral Registration Officers is the more commonly used term (e.g. in Electoral Commission guidance) but “registration officers” is the term typically used in legislation)

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rules to organic material promoted by third party campaigners who are not recognised and are not individuals, and disapplying ministerial and parliamentary approval procedures for minor corrective changes to digital imprint guidance.

- Part 5 extends the role and powers of the Electoral Commission to give it responsibility for enforcing candidate, local third party and recall petition campaigner offences, as well as all imprint offences. It also makes provision to re-classify criminal offences in the Political Parties, Elections and Referendums Act 2000 (“PPERA”) that relate to administrative requirements so that they are punishable only through civil sanctions imposed by the Commission, allowing the police to focus on serious breaches; provides the Commission with explicit powers to share information with other regulators and enforcement bodies; and makes amendments supplementary to proposals to increase the Commission’s maximum fines.
- Part 6 comprises measures to address harassment and intimidation experienced by candidates during election campaigns. It will extend the remit of the existing disqualification order to apply to offenders of intimidatory offences against electoral staff (as well as candidates and campaigners). It also gives courts the power to treat hostility towards candidates, campaigners, electoral staff etc, as an aggravating factor for any offences linked to intimidation in an electoral context. It also ensures candidates’ home addresses are not published as far as possible, reducing the gap relating to those candidates who act as their own election agent.
- Part 7 sets out general provisions, including power to make consequential provision, financial provision, territorial extent, and commencement.

Provisions which require the consent of the Scottish Parliament

12. As noted in the first and second LCMs, the Bill is a relevant Bill within Rule 9B.1.1 of Standing Orders as it makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament and, in some instances, alters the executive competence of the Scottish Ministers. This is also the case for some of the amendments agreed at Committee stage.

13. The interaction between electoral law and the devolution settlement in Scotland is complex. Generally speaking, matters related to UK parliamentary elections are reserved, while electoral law in relation to Scottish Parliament and local government elections is generally devolved to the Scottish Parliament, subject to reservations set out in Reservation B3 of schedule 5 of the Scotland Act 1998.

14. The devolution analysis required takes account of the complexity of electoral law and the devolution settlement. The Scottish Government agrees with the UK Government that certain measures in the Bill engage the legislative consent process,

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including certain provisions in Parts 2 to 5 of the Bill. In addition, the power in Part 7 of the Bill to make consequential provision will require legislative consent to the extent that it relates to devolved matters. The Scottish Government is now able to provide a view on consent on some but not all of the Bill's provisions.

15. The Scottish Government, in agreement with the UK Government, considers that certain measures within the Bill engage the legislative consent process to the extent that they apply to elections within the devolved responsibility of the Scottish Parliament (i.e. Scottish Parliament and Scottish local government elections) and so apply to Scotland for a purpose within the legislative competence of the Parliament. The Bill also contains provision that would alter the executive competence of the Scottish Ministers. Whilst analysis and discussion with stakeholders is ongoing, the Scottish Government's assessment is that the following provisions trigger the need for legislative consent as they apply for a devolved purpose or, in relation to regulation making powers, alter the executive competence of the Scottish Ministers.

Part 1 – Young Voters

Clause 4 – Declarations of local connection: looked after persons and detained children

16. Clause 4(9) adds new section 7BA to the Representation of the People Act 1983 (the "1983 Act") describing who may make a declaration of local connection as a looked after child. The UK Government has indicated that this change does not involve legislative consent, however the current Scottish devolved law requires that the young person is unable to make any of the other kinds of declaration (e.g. on the basis of homelessness) as a condition of their being allowed to make a looked after child declaration. New section 7BA removes that condition, so that a care experienced young person who was homeless would get the choice of which type of declaration to make. This changes the legal requirements associated with a process of registering to vote in Scottish devolved elections and so makes provision for a purpose within the legislative competence of the Scottish Parliament.

17. **Position on consent:** The Scottish Government considers that this provision in its present form does engage the legislative consent process. It is undertaking discussion with the UK Government about this provision ahead of reaching a final view on the Scottish Government's recommendation.

Clause 6 – Further provision about registration and participation in elections

18. Clause 6 and Schedule 1 together make various minor changes to the law to accommodate the move to allow 16 and 17 year olds to vote in UK Parliament elections, e.g. by lowering the age a person can enter a polling place unaccompanied. Paragraph 5 of Schedule 1 excludes from the canvass in Great Britain "youth detention accommodation" which would include persons detained in secure accommodation in Scotland. The UK Government has indicated that this change does not involve legislative consent, however [The Representation of the](#)

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People (Annual Canvass) (Miscellaneous Amendments) (Scotland) Regulations

2020 means there is one combined canvass which updates both the register for UK Parliament elections and the Scottish local government register.

19. **Position on consent:** The Scottish Government considers that the amendment made by paragraph 5 of Schedule 1 makes provision within the competence of the Scottish Parliament insofar as it applies to the Scottish local government register. The wider franchise for Scottish Parliament and local government elections means that more people in youth detention accommodation in Scotland are likely to be eligible to vote. The Scottish Government is therefore concerned that disapplying the canvass from youth detention accommodation might lead to those who are able to vote in Scottish Parliament and local government elections not being included in the electoral register. The Scottish Government would like to consult more widely on this issue and is undertaking discussion with the UK Government on consent issues identified with this provision.

Clause 10 – Exceptions for combined information under devolved legislation

20. Clause 10(3) inserts a section 14A into the Scottish Elections (Reduction of Voting Age) Act 2015 requiring that Scottish devolved disclosures of combined registers data must follow the conditions of both UK Parliament legislation and Scottish Parliament legislation. This in effect forces the two sets of conditions to align or they would block each other. Clause 10(4) allows regulations made by the Scottish Ministers to modify the new section 14A, in line with the power the 2015 Act gives them to modify section 14 of the same Act to add restrictions on disclosure or new exceptions.

21. **Position on consent:** Contrary to the view of the UK Government, the Scottish Government considers that this change in its current form requires legislative consent as it makes provision about devolved election registration within the legislative competence of the Parliament by requiring devolved disclosures to comply with extra requirements. It also alters the executive competence of the Scottish Ministers by giving them an expanded regulation-making power. The Scottish Government agrees in principle that disclosure of combined register data should follow the conditions of both UK Parliament legislation and Scottish Parliament legislation. It is discussing this provision and the potential consent issues with the UK Government and those discussions will inform a position on consent.

Clause 14 – Interpretation of sections 7 to 13

22. **Position on consent:** As some of the definitions given in this clause are used in clause 10, which the Scottish Government considers deals with devolved matters, the Scottish Government considers that clause 14 may also require legislative consent to that extent and is discussing this provision and the potential consent issues with the UK Government.

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Part 2 – Registration of Voters

Clause 30 – Declaration of local connection ceasing to have effect

23. Clause 30 confers a new power on “the appropriate national authority” regarding declarations of local connection for registration in respect of voter registration. This power is exercisable by the Scottish Ministers in the case of a declaration of local connection which has effect for the purposes of a person’s registration in the register of local government electors in Scotland. The power is created by amending the 1983 Act and enables regulations to provide that a declaration of local connection will cease to have effect when an individual’s circumstances change such that the declaration no longer applies. This may occur either because the individual is no longer entitled to make any declaration of local connection, or because their circumstances have changed and they would now need to make such a declaration on a different basis.

24. Where a registration officer removes a person with a declaration of local connection from the register, due to another entry (of any type) being made for that person in any register of electors, a new requirement inserted by clause 30 requires the registration officer to inform the person that they have been removed from the register as soon as reasonably practicable. A similar requirement is placed on registration officers where a person with a service declaration is being removed from the register of electors. Technical provision is also made to clarify that new power, and all regulation making powers under the 1983 Act, carry with them the power to make incidental, supplemental, and saving provision.

25. **Position on consent:** The Scottish Government agrees with the UK Government that this provision triggers the need for legislative consent. Clause 30 makes provision for a purpose within the Scottish Parliament’s legislative competence as it applies to the register of local government electors, and alters the executive competence of the Scottish Ministers. It considers that this power will assist steps to keep the electoral register up to date and recommends that the Scottish Parliament grant legislative consent to this change.

Clause 32 – Anonymous registration

26. Clause 32 makes provision on anonymous registration in England, Wales and Scotland. The amendments made by clause 32 will apply to the register of local government electors in Scotland and the UK Government considers that this triggers the need for legislative consent. The register of local government electors in Scotland is the operative register for both local government and Scottish Parliament elections. Currently a period of anonymous registration can last for up to one year and the elector must make a further application prior to the end of that period if they wish to remain registered anonymously. The Bill seeks to change this to three years.

27. The Bill also makes technical changes to anonymous registration. Electoral Registration Officers are currently under a duty, so far as reasonably practicable, to ensure that electors’ electoral numbers run consecutively in each register maintained

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by them. Clause 32 provides an exemption to this duty in respect of electoral registration numbers allocated to anonymous electors. This increases the possibility of anonymous electors keeping the same electoral number for the duration of their anonymous registration. Clause 32 also defines the starting point at which the three year period of anonymous registration will begin. The period will either begin on the date when the person's entry in the register first takes effect or the date on which the registration officer determines the safety test is met. The start date under the current law is the date when the entry first takes effect.

28. **Position on consent:** The Scottish Government agrees with the UK Government that this engages the legislative consent process and recommends that the Scottish Parliament grant legislative consent to this change. The Scottish Government is sympathetic to the argument that the one year period places a disproportionate burden on both applicants and administrators. It is also acknowledged that continuing with a one year period in respect of the local government register when the UK Parliament register had moved to a longer timeframe would cause inconvenience and confusion for voters.

Clause 33 – Pre-election applications for registration

29. Clause 33 of the Bill provides for a clearly defined registration deadline for elections across the UK. This sets an explicit registration deadline before any election in Great Britain, after which any applications received will not be added to the electoral register until after that election. This deadline set by the amendment to the 1983 Act is 5 pm, 12 working days before a poll. It is suggested that setting a clear deadline of 5pm will improve clarity and avoid attempts to register late on the day of the deadline⁷. As this deadline would also apply to local government elections in Scotland and elections to the Scottish Parliament, it triggers the need for legislative consent. A power is also introduced to enable the "appropriate national authority" to amend the new deadline in respect of elections for which they are responsible. This power is conferred on the Scottish Ministers to change the registration application deadline for Scottish Parliamentary and local government elections following consultation with the Electoral Commission. The power relates to elections which are devolved to the Scottish Parliament, and alters the executive competence of the Scottish Ministers.

30. **Position on consent:** The Scottish Government agrees with the UK Government that this engages the legislative consent process and recommends that the Scottish Parliament grant legislative consent to this change. The Scottish Government is supportive of ways in which to assist the registration of voters. The deadline selected provides clarity.

⁷ For example, the [submission](#) of the Electoral Management Board for Scotland on the Bill commented: "This is a welcome change that will allow a consistency of messaging to electors where many other deadlines are also 5pm such as the postal and proxy voting deadlines. It also removes any expectation that an ERO will be able to resource any enquiries close to a midnight deadline."

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Clause 36 – Regulations as to registration etc: information to assist registration officers

31. Clause 36 amends an existing power that allows for provisions to be made requiring a local authority, or anyone providing services to that authority, to give registration officers access to their records (by any means) in order to support the registration officers' duties. It is intended to clarify that provisions can be made that allow electoral registration officers to have clear access to relevant local authority data in any form and any manner they choose to access it and use it to carry out their registration duties. This amendment clarifies that registration officers can access and copy records. Clause 36 also introduces a new regulation making power that will allow for provisions to be made authorising or requiring the sharing of information between persons, where it will assist a registration officer in their duties.

32. **Position on consent:** The powers set out in this clause are exercisable by the Scottish Ministers in relation to registration officers' duties in respect of local government elections in Scotland, modifying their executive competence, and, therefore the Scottish Government agrees with the UK Government that this clause triggers the need for legislative consent. It recommends that the Scottish Parliament grant legislative consent to this change. This change should support efforts to improve the registration of voters.

Clause 37 – Edited register: electors to opt in

33. Clause 37 makes provision in relation to the 'open' register of electors. Changes will be made to the way electors consent to being on the open register. The open register lists the names and addresses of everyone registered to vote who has not opted out. It is updated and published every month and can be sold to any person, organisation, or company for a wide range of purposes. For both the UK Parliament register and the local government register there is a presumption that citizens will be added to the open register unless they opt out. The provision changes the presumption for both registers so that voters will not be added to the open register unless they actively opt in. It does so by making changes to an existing power that is exercisable by the Scottish Ministers. The UK Government considers it necessary to apply this change to the Scottish local government register, to avoid confusion with one register requiring an 'opt in' while the other requires an 'opt out'.

34. **Position on consent:** This clause alters the executive competence of the Scottish Ministers and, therefore the Scottish Government agrees with the UK Government that the clause triggers the need for legislative consent. It recommends that the Scottish Parliament grant legislative consent to this change. In doing so, the Scottish Government highlights that the Welsh Senedd [legislated in 2025](#) to cease use of an open register in relation to the register used for Welsh Senedd and local government elections. The Scottish Government proposes to consider further the question of outright abolition of the open register, but agrees that it would not be desirable in the interim for the open register used for Scottish Parliament and local government elections to remain on an 'opt out' model when the UK Parliament register has moved to 'opt in' model as a result of the Bill. It is noted that further

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consideration will be needed for the managing of any transitional period where the change is made.

Part 3 – Conduct of Elections etc.

Clause 48 – Absent voting

35. Clause 48 introduces Schedule 3, which makes provision relating to absent voting. Part 1 of Schedule 3 amends Schedule 4 (absent voting in Great Britain) of the Representation of the People Act 2000 (“the 2000 Act”), which applies to absent voting at UK Parliamentary elections and local government elections in Scotland.

36. Part 1 of Schedule 3 makes technical changes to provide clarity and certainty to electoral administrators including in relation to the cancellation of postal votes; enabling postal votes to be issued within the objections period; and the calculation of the “maximum permitted period” that a postal voting arrangement for UK parliamentary and local government elections, can remain in place. The rationale behind most of these changes was described in a Strategy Paper published by the UK Government in summer 2025⁸. These provisions would be within the legislative competence of the Scottish Parliament in so far as they relate to local government elections in Scotland.

37. Part 1 of Schedule 3 also creates regulation making powers in relation to absent voting which are exercisable by the “appropriate national authority” which is the Scottish Ministers in relation to local government elections in Scotland. The Scottish Ministers will be provided regulation making powers in relation to prescribing matters relating to the absent voting at local government elections in Scotland. These provisions thereby alter the executive competence of the Scottish Ministers and legislative consent is required.

38. Schedule 4 of the 2000 Act has a number of provisions where changes may be “prescribed” and the Bill means these will be now exercisable by the Scottish Ministers in respect of local government elections. Regulations made by the Scottish Ministers under Schedule 4 are subject to the affirmative procedure. Key aspects of these changes include:

- allowing people whose application to register to vote is still within the objections period to be able to apply for an absent vote. The intention is to smooth the process for people applying for an absent vote at the point they also apply to register and avoid postal vote packs for people who register close to polling day issuing at a late stage.
- changing to the “maximum period” for a continuing postal vote in the Bill ensures that when a postal vote application is received and granted between 1 October and 30 January, it will now last until the fourth (rather than third) 31 January following the date on which the application is granted. This responds to a concern that applications granted shortly

⁸ [Restoring trust in our democracy: Our strategy for modern and secure elections - GOV.UK](#)

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before 31 January only provided a continuing postal vote for a period of just over 2 years, rather than the concept of a 3-year reapplication. This change will require Scottish Parliament secondary legislation to make a similar change for Scottish Parliament elections and some local elections.

- requiring registration officers to keep records of only the latest information for an applicant for an absent vote that relates to a particular kind of election for a period. This means that where a person is shown in the absent voting record for a particular kind of election – for devolved purposes, local government elections in Scotland – and a subsequent absent voting application to vote by post or proxy at the same kind of election is granted then the registration officer must ensure that the record shows only the information relating to the later application. This change will require Scottish Parliament secondary legislation to make a similar change for Scottish Parliament elections.
- changing to the circumstances in which a registration officer is required to remove a person's entry from the absent vote record. These circumstances include where a person applies to be removed; where a person's new short-term arrangement (i.e. to vote by post or proxy at a particular election) overrides the previous long-term arrangement, unless regulations require the person not to be removed; and where a person's postal or proxy application was granted on the basis that the person "will be registered" and that person's application to register as an elector is then refused or withdrawn.
- providing for a proxy with a proxy postal voting arrangement to be able to apply for alternative arrangements to voting by post as proxy in particular elections. These include requests for ballot papers to be sent to alternative addresses, the ability to vote in person at a specific election and the continuation of postal voting where an entitlement expires close to polling day.

39. Part 2 of Schedule 3 makes provision in respect of absent voting in Northern Ireland only and does not trigger the need for legislative consent.

40. Part 3 of Schedule 3 also makes provision relating to offences relating to absent voting at Scottish local government elections. The amendment made by paragraph 19 broadens the offence of providing false information in connection with an application relating to absent voting at Scottish local government elections to include information given in all applications made under Schedule 4, as opposed to specifically listed applications. This will therefore capture the new applications provided for by the amendments made by the Bill.

41. Paragraph 23 extends the application of an offence relating to applications for absent votes so that it applies not only to applications to obtain an absent vote but also to other relevant applications such as an application to be removed from a postal to proxy list. Paragraph 24 amends Schedule 2 of the 1983 Act in relation to the enabling powers in respect of registration and absent voting. The provisions

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amend the description of a registration officer's duties to include references to absent voting applications made under Schedule 4 as opposed to reference to particular paragraphs. The provision also widens a power exercisable by the Scottish Ministers in relation about the use of the UK digital service in relation to absent voting applications in relation to local government elections in Scotland.

42. **Position on consent:** The Scottish Government agrees that Parts 1 and 3 of Schedule 3 make provision for a purpose within the Scottish Parliament's legislative competence to the extent that the amendments apply to local government elections and alter the executive competence of the Scottish Ministers by amending powers exercisable by them.

43. The Scottish Government therefore agrees with the UK Government that these provisions trigger the need for legislative consent as they are for a purpose within the legislative competence of the Scottish Parliament to the extent that they apply to local government elections in Scotland, which are devolved. The Scottish Government recommends that the Scottish Parliament grant legislative consent to these changes. The Scottish and Welsh Governments are currently arranging access for voters in Scotland and Wales to the UK Government's Online Absent Voting Application (OAVA). This is with the intention to allow voters to apply for an absent vote for all elections online. Legislation laid in the Scottish Parliament in January 2026 set the date for joining the OAVA system at 3 November 2026⁹. This would involve the use of the UK digital service, which is reserved under the B3 reservation in Schedule 5 of the Scotland Act 1998. It is necessary for the UK digital service to be used for absent voting applications to be made online via OAVA.

44. The Scottish Government considers that a refusal of legislative consent in this area – and the resulting divergence between absent voting provisions between UK Parliament and those for Scottish Parliament and local government elections – would risk making it harder for voters in Scotland to use the OAVA system to apply online for an absent vote. The Scottish Government therefore recommends providing legislative consent to clause 48 and Schedule 3.

Part 4 – Campaigns and Political Expenditure

Clause 54 – Publication of election agents' addresses

45. Clause 54 seeks to remove the requirement for an election agent's address to be published in the Notice of Election. The Bill restates and amends existing provision made by the Scottish Elections (Representation and Reform) Act 2025 ("the 2025 Act") in relation to local government elections (in particular by restricting any correspondence address provided to be a UK address). The change also makes clear that when a new election agent is appointed following the death or revocation of the appointment of the previous agent, the new agent may also request that a correspondence address is published. The amendment made by clause 54 would

⁹ [The Absent Voting \(Miscellaneous Amendment\) \(Scotland\) Order 2026](#) and [The Absent Voting \(Miscellaneous Amendment\) \(Scotland\) Regulations 2026](#)

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apply to UK parliamentary elections and all local elections in England and Scotland. As such separate Scottish secondary legislation would be required to make comparable position for Scottish Parliament elections.

46. **Position on consent:** The Scottish Government agrees with the UK Government that this clause engages the legislative consent process as it makes provision for a purpose within the Scottish Parliament's legislative competence as the changes would apply to local government elections in Scotland. However, the Scottish Government is currently preparing secondary legislation in this area ahead of the May 2027 local government elections, and is considering whether to make a similar change in advance of those elections. It has highlighted these plans to the UK Government and will provide a position on consent following those discussions.

Clause 55 – Leave to pay late and disputed expenses claims

47. Clause 55 introduces Schedule 6 which makes provision for the Electoral Commission, rather than the courts, to give permission for candidates and election agents to pay late and disputed claims in respect of certain expenses. Currently, invoices for campaign spending must be received within 30 days of the election and payments must be made within 60 days. For invoices received or paid after these time limits, the relevant person responsible must obtain "leave to pay" by applying to the relevant court to obtain a court judgement. These provisions will amend procedures relating to leave to pay for political parties, third parties and permitted participants, as well as candidates at local government elections in Scotland, enabling them to apply to the Electoral Commission for leave to pay, instead of the relevant court.

48. Paragraphs 2, 3 and 4 of Schedule 6 are relevant for Scottish Parliament and local government elections. Where leave to pay has been granted by the Electoral Commission, a candidate or their election agent will be required to deliver to the appropriate officer or the Electoral Commission, a return of the sums paid in pursuance of the leave, alongside a copy of the Commission's written confirmation (by way of a notice) that leave has been granted.

49. **Position on consent:** The Scottish Government agrees with the UK Government that clause 55 triggers the need for legislative consent to the extent that its terms apply to Scottish Parliament elections, local government elections in Scotland and devolved referendums as this is a purpose within the Scottish Parliament's legislative competence.

50. The Scottish Government's consideration of these changes is ongoing as a part of wider consideration of Part 4 and 5 of the Bill.

Clause 56 – Delivery and inspection of returns and declarations

51. Clause 56 introduces Schedule 7 which provides for amendments to the process for the delivery of certain returns, which are required under a number of statutes, so that they are also delivered to the Electoral Commission. This includes

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returns in relation to Scottish local government elections in paragraph 2 of the Schedule, amending the 1983 Act.

52. **Position on consent:** The Scottish Government agrees with the UK Government that clause 56 and Schedule 7 engages the legislative consent process as it makes provision for a purpose within the legislative competence of the Scottish Parliament so far as they apply to local government elections in Scotland.

53. The Scottish Government's consideration of these changes is ongoing as a part of wider consideration of Part 4 and 5 of the Bill.

Control of Political donations – overview

54. The UK Government has indicated that the Bill's provisions on political finance seek to address the risks of foreign interference in elections and to strengthen the rules around political donations. The UK Government is also seeking to strengthen obligations on those who receive donations through an enhanced "Know Your Donor" framework. The UK Government's view, with which the Scottish Government agrees, is that these provisions in the Bill generally engage the legislative consent process as they make provision for a purpose within the legislative competence of the Scottish Parliament in that they apply across all aspects of political finance including devolved donations such as donations to Scottish local government election campaigns and third party campaigns at Scottish Parliament elections. They also create new powers for connected purposes, which alter the executive competence of the Scottish Ministers.

55. Additionally, the Scottish Government notes that [paragraph 6 of Schedule 5](#) of the Scotland Act 1998 reserves "the registration and funding of political parties", but [article 2](#) of the Scotland Act 1998 (Modifications of Schedules 4 and 5) Order 1999 carves out from that reservation "payments to any political party for the purpose of assisting members of the [Scottish] Parliament who are connected with the party to perform their Parliamentary duties". Donations made to the running costs of Scottish Parliament groups (e.g. by providing research staff, paying the salaries of the same) are devolved.

56. UK Government Amendments from July¹⁰ seek to insert:

- Amendment NC 72 – adds new section (Donations etc in cryptoassets) amending PPERA sections 52, 55, 56 and Schedule 6 and inserting (to PPERA) new section 55A (Cryptoassets) and two new Schedules: (Donations in cryptoassets: transitional provision) and (Regulated transactions involving cryptoassets).
- Amendment NC 73 – adds new section (Meaning of "donation"), modifying definitions in other legislation.

¹⁰ [rop_rm_rep_0707.pdf](#)

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- Amendment NC 74 – adds new section (Cap on donations etc from overseas contributors) amending PPERA and adds two new schedules to the Bill (also associated amendments NS3 and NS4).
- Amendment NC 75 – new section (power to extend certain restrictions to other types of donations and loans etc).
- Amendment NC 76 – new section (Entering into of regulated transactions under Part 4A of PPERA) amending PPERA.
- Amendment NC 77 – new section (Procedure for regulations under PPERA) amending section 256 of PPERA (also consequential amendments Gov 69, Gov 96 and Gov 113).

57. The UK Government considers that amendments NC 72, NC 73, NC 74, and NC 75 attract the requirement for legislative consent and that amendments NC 76 and NC 77 (and its consequential amendments) do not. The Scottish Government agrees that NC 72, NC 73, NC 74 and NC 75 trigger the need for legislative consent.

Amendments NC 72 and NC 75 – new section and two new Schedules (Donations etc in cryptoassets)

58. This amendment will add a section to the Bill amending PPERA, including inserting a new section 55A to PPERA. It will also add two new schedules to the Bill ((Donations in cryptoassets: transitional provision) and (Regulated transactions involving cryptoassets)). These amendments make provision that prohibits any political party from accepting a donation or entering a regulated transaction which is made in cryptoassets (such as cryptocurrencies like bitcoin). This prohibition applies to any value of donation. It will apply retrospectively to donations received or transactions entered on or after 25 March 2026. This is a part of the UK Government's response to the Rycroft Review (see further the Ministerial statement made on 25 March 2026¹¹). Amendment NC 72 applies to donations to registered political parties only.

59. Additionally, the power to be added by amendment NC 75 (see below) will enable the UK Government to make provision to extend the moratorium to other political donation types, including those which relate to devolved matters such as donations to candidates at Scottish local and Scottish Parliament elections, and donations to third party campaigns at those elections. The UK Government therefore considers this to engage the legislative consent process to that extent.

60. **Position on consent:** The Scottish Government agrees that the amendments engage the legislative consent process as they make provision for a purpose within the legislative competence of the Scottish Parliament insofar as they apply to local government elections in Scotland. It also agrees in principle that there is a greater

¹¹ [Written statements - Written questions, answers and statements - UK Parliament](#)

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need to regulate cryptoasset donations. However, engagement is ongoing with the UK Government on these provisions prior to providing a view on legislative consent.

Amendment NC 73 – Meaning of “donation”

61. The new clause added by this amendment changes the meaning of donation for the purposes of existing provisions about the control of donations to candidates, registered parties and other persons. Changes are made to PPERA, including its section 50, which provides the single definition of “donation” used by all kinds of donations regulated by PPERA, including devolved matters like donations to third party campaigners at Scottish Parliament and Scottish local elections. This change will also apply to donations to Scottish Parliament candidates as [article 36](#) of the Scottish Parliament (Elections etc.) Order 2015 also adopts the section 50 PPERA definition of donation.

62. The new definition clarifies that the use of property to pay expenses, whether cryptoassets or any other property, will count as a donation. Under the current law where a donor meets an expense on behalf of the recipient, this is only considered a donation if they pay the expense with money. The intention is that cryptoassets cannot be used to pay expenses. As this will read across to all the political finance regimes, including the regimes that relate to devolved matters, and the amendment also makes changes to devolved legislation, the UK Government considers this change will engage the legislative consent process to that extent.

63. **Position on consent:** The Scottish Government agrees that consent is required for provisions relevant to donations made to candidates, election agents and recognised third parties in connection with Scottish Parliament and Scottish local government elections as provision of that type is provision within the legislative competence of the Scottish Parliament. The Scottish Government agrees in principle that there is a greater need to regulate cryptoasset donations. However, engagement is ongoing with the UK Government on these provisions prior to providing a view on legislative consent.

Amendments NC 74, NS3 and NS4 – new section and two new schedules – Cap on donations etc. by overseas contributors

64. Proposed amendment NC 74 adds a new clause to the Bill (Cap on donations etc by overseas contributors) amending Part 4 of PPERA, modifying existing sections and Schedules, adding new sections 55B, 55C, 55D and a new Schedule 5A and amending Schedule 6 of the Political Parties and Elections Act 2009. The amendments also insert two new schedules into the Bill, the text for which is set out in amendments NS3 and NS4.

65. New section 55B (cap on donations by overseas contributors) sets a limit for donations by overseas contributors to registered parties at £100,000. It provides that an individual is not a permissible donor if (a) they are an overseas contributor when the donation is received and (b) the value of the donation or the combined total of that donation and any relevant previous contributions by that individual is more than

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£100,000. An individual is considered to be an overseas contributor if they are either: (a) registered as an overseas elector¹² when the donation is received or (b) registered otherwise than as an overseas elector when the donation is received but were not a UK resident during all or part of the period starting on 1 January of the previous calendar year and ending at the donation date. An individual is treated as resident in the UK if they are registered under a service declaration (in accordance with section 15 of the 1983 Act).

66. New section 55C (relevant previous contributions) provides where previous donations and transactions by an individual are “relevant previous contributions” for the purposes of calculating if the cap of £100,000 in clause 55B(1)(b) is exceeded and how the amount of the individual’s relevant previous contributions is to be determined. Only “relevant overseas donations” made earlier in the same calendar year and “relevant overseas transactions” in relation to the donor when the main donation is received are of relevance.

67. Relevant overseas donations are listed in paragraph 1(3) of new schedule 5A and include donations to registered parties, regulated donees, permitted participants in both referendums under UK Acts and Acts of the Scottish Parliament, recognised third parties and candidates at both local government elections and Scottish Parliament elections. Such donations are only “relevant overseas donations” where they are received when the donor is an overseas contributor. Donations which have been returned or sent to the Electoral Commission do not count for this calculation. Paragraph 2 of Schedule 5A sets out which provision is to be used to determine the value of such donations.

68. Relevant overseas transactions are listed in paragraph 4(2) of new Schedule 5A. These are regulated transactions (within the meaning of Part 4A of PPERA and Part 6 of Schedule 3 of the Referendums (Scotland) Act 2020) and controlled transactions (within the meaning of Schedule 7A of PPERA). Such transactions are only “relevant overseas transactions” in relation to an individual where that individual is a party to the transaction and they are an overseas contributor. Regulated transactions are agreements between an individual and a registered party/ permitted participant to loan money or to provide a credit facility to the registered party/ permitted participant. An arrangement where a person offers any form of security which supports a transaction between another person (e.g. a conventional lender like a bank) and a registered party/ permitted participant by which a loan of money or credit facility or property, services or facilities are provided to the registered party/ permitted participant is also a regulated transaction (also referred to as “connected transaction”). Schedule 7A of PPERA contains similar provisions in relation to regulated participants (i.e. members of registered parties, members associations or holders of relevant elective office). Paragraph 5 of Schedule 5A sets out which provision is to be used to determine the value of such transactions.

69. New section 55D makes provision regarding declarations by overseas contributors. Where an overseas contributor makes a donation to a registered party,

¹² in accordance with section 1C of the Representation of the People Act 1985

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they are required to give a written declaration to the party and the party is required to keep the declaration for a period of 12 months. As the cap applies to all political donations by the donor to a range of regulated recipients, the declaration is each recipient's way of evidencing that the donation they have accepted remained under the cap. Subsection (8) introduces an offence of knowingly or recklessly making a false declaration under this clause.

70. As the new cap on donations from overseas contributors is intended to apply across all donation and regulated transaction regimes, the new clause amends the provisions that apply to registered parties, but this reads across to devolved legislation and devolved matters under PPERA and the 1983 Act. Additionally, the power in Government amendment NC 75 will enable the UK Government to make provision to extend the cap to the other political donation types, including those which relate to devolved matters such as donations to candidates at Scottish local and Scottish Parliament elections, and donations to third party campaigns at those elections. The UK Government considers this to engage the legislative consent process to that extent.

71. Amendment NS3 (application and transitional provisions in relation to the cap on donations to registered parties by overseas contributors) applies the cap retrospectively to any donation by an overseas contributor received by a registered party between 25 March 2026 and the commencement date of the provisions provided that the donor was either (a) an overseas contributor due to being registered as an overseas elector when the donation was received or (b) an overseas contributor due to not being a UK resident during all or part of the period starting on 1 January of the previous calendar year and ending when the donation was received and was registered as an overseas elector at any point between 25 March 2026 and when the donation was received.

72. The Schedule to be added by amendment NS4 applies the cap on political giving by overseas contributors to loans and credit facilities provided to registered parties as well as connected transactions which involve someone providing security for borrowing of a registered party from another source (e.g. a bank loan). This is done broadly on the same terms as the cap on donations proposed by NC 74. An overseas contributor is not treated as an "authorised participant" (registered parties may only enter into regulated transactions with authorised participants) if the value of that loan, credit facility or security in question would either on its own, or taken together with the previous overseas contributions made by the contributor in the calendar year, exceed the cap of £100,000 per calendar year. For this purpose, the value of any lending is the outstanding balance at the date when overseas contributor event takes place (such as e.g. an overseas contributor becoming a party to the transaction), not the initial total balance.

73. A requirement for the overseas contributor to make a declaration similar to that under section 55D also applies. Similar to section 55D, it would also be an offence to knowingly or recklessly make a false declaration in relation to a regulated transaction or connected transaction.

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74. For this purpose, a change in the terms of an existing transaction is essentially treated as a new transaction. For example, where a person who is a party to a regulated transaction becomes an overseas elector or where a transaction becomes a regulated transaction due to variation of its terms while a party to the transaction is an overseas contributor, this triggers the processes related to the cap (e.g. making of the declaration). These must be carried out to ensure that the cap is not exceeded in relation to that person.

75. Additionally, a person who is a party to a regulated transaction (including connected transaction) must give a notice within 14 days to the registered party involved in the transaction if they become or cease to be an overseas elector. A new offence is created which a person commits by failing to give a notice of this change of circumstances within the 14 days. Any regulated transaction with an unauthorised participant is void and the money must be returned.

76. **Position on consent:** The Scottish Government agrees with the UK Government that the legislative consent process is triggered. Amendment NC 74 amends the definition of “permissible donor” in PPERA. The definition applies to other donation types including donations made to recognised third parties in connection with election campaigns for the Scottish Parliament and local government elections in Scotland, and donations made to candidates at local government elections in Scotland. These are both matters within the legislative competence of the Scottish Parliament, so legislative consent is required. The Schedule to be added by amendment NS3 concerns cases where a relevant donation is received by a registered party. The Scottish Government considers that legislative consent is required to the extent that these provisions apply to donations to political parties made for the purpose of assisting Members of the Scottish Parliament who are connected with the party to perform their parliamentary duties.

77. The Scottish Government’s engagement is ongoing with the UK Government on these provisions prior to providing a view on legislative consent.

Amendments NC 75 and Gov100 – Power to extend certain restrictions to other types of donations and loans etc.

78. Amendment NC 75 confers a new power on UK Ministers to, by regulations, expand some of the new donation restrictions placed on political parties by the Bill to a range of other forms of political donation types. UK Ministers will be able to put in place equivalent or similar prohibitions and restrictions to those set out in the provisions relating to cryptoassets (amendment NC 72 above), the cap on donations or loans from overseas donors (amendment NC 74 above) and donations by companies and Limited Liability Partnerships (LLPs) (clause 60 below). The power is broad and allows regulations which achieve “effects equivalent” to the provisions in the Bill on those topics. Amendment Gov100 provides for amendment NC 75 to come into force on Royal Assent.

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79. The power conferred by NC 75 would enable UK Ministers to make regulations that would extend equivalent restrictions to (among other things): (i) donations made to recognised third parties in connection with Scottish Parliament elections and local government elections in Scotland; (ii) donations made to candidates (and their agents) at local government elections in Scotland; (iii) donations made to individual candidates at Scottish Parliament elections and (iv) the regulated campaigns at Scottish referendums under the Referendums (Scotland) Act 2020.

80. Where any regulations extend the controls in relation to cryptoassets and donations from overseas voters, those provisions could be given retrospective effect and apply to donations received (and loans entered) on or after 25 March 2026. Provision similar to clause 60 on donations by companies and LLPs cannot be given retrospective effect under this power.

81. A separate power is also created by this amendment to allow UK Ministers to make regulations restricting political contributions by unincorporated associations in similar ways as the overseas contributors cap (NC 74) or the limits on company and LLP contributions (clause 60) limit those groups.

82. Regulations under these powers may also create criminal offences and amend, repeal or revoke enactments (including Acts of the Scottish Parliament). Regulations under the powers include the ability to sub-delegate, for a first set of regulations to give further regulation-making powers.

83. Any regulations made by the Secretary of State must be made within 18 months beginning with the day on which the Bill is passed. The regulations would also be subject to the affirmative procedure and would need to be approved by both Houses of Parliament. Before laying any regulations before Parliament, the Secretary of State is required to consult: the Electoral Commission; the Scottish Ministers in relation to any aspects of the regulations which relate to Scottish devolved matters; and the Welsh Ministers in relation to any aspects of the regulations which relate to Welsh devolved matters.

84. Where regulations made by the Secretary of State confer powers on the Secretary of State to make further regulations or orders by statutory instrument, this can include power to amend, repeal or revoke an enactment (including Acts of the Scottish Parliament). If any sub-delegated powers are included in regulations, and the regulations or orders made in reliance upon them are to apply in relation to Scottish devolved matters or Welsh devolved matters, before making the regulations or orders, the Secretary of State must consult the Scottish Ministers or (as appropriate) the Welsh Ministers. A sub-delegated regulation-making power of this kind cannot be used to create criminal offences.

85. **Position on consent:** The Scottish Government considers that the legislative consent process is triggered by this amendment insofar as it enables the Secretary of State to make regulations that would extend the controls in relation to donations

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made to recognised third parties in connection with Scottish Parliament elections and local government elections in Scotland; donations made to candidates (and their agents) at local government elections in Scotland; and donations made to individual candidates at Scottish Parliament elections.

86. The Scottish Government is seeking to discuss these amendments with the UK and Welsh Governments. As such, the Scottish Government is unable to provide a recommendation on consent at this time.

Amendments NC 77 and Gov 69, Gov 96 and Gov 113 – proposed new clause – Procedure for regulations under PPERA

87. Amendment NC 77 amends section 156 of PPERA and amendments Gov 69, Gov 96 and Gov 113 make consequential changes. Together these amendments ensure that specified new regulation making powers added to PPERA by the Bill will be subject to affirmative procedure and exercisable by the UK Parliament alone. The powers are:

- New section 54C(3) - power to amend the risk factors assessed in a know your donor assessment carried out for a donation to a political party (clause 58)
- New section 54G - power to amend the “significant control” test applying to determine if a company or LLP is a permissible donor (clause 60)
- New section 54H(7) - power to amend how profit is calculated to determine if a company or LLP is a permissible donor (clause 60)
- New section 55A(7) - power to amend the meaning of “cryptoasset” for the purposes of the cryptoasset moratorium (amendment Gov NC72)
- New section 71HZB(3) - power to amend the risk factors in a know your donor assessment in relation to a regulated loan to a political party (amendment Gov NC77).

88. The UK Government considers that these amendments do not require legislative consent.

89. **Position on consent:** The Scottish Government has identified potential consent issues with these changes and is seeking to discuss this further with the UK and Welsh Governments and as such is unable to provide a recommendation on consent at this time.

Clause 58 – Risk assessments

90. Clause 58 introduces a new requirement that for donations over £11,180 (or multiple smaller donations adding up to that amount in a single calendar year), recipients will have to carry out a risk assessment to judge the likelihood of foreign or illicit sources of funding and decide whether to accept or return the donation. Any donation not risk assessed within 30 days must be returned and may be forfeited to

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the Electoral Commission if not returned. Clause 58 sets out “risk assessment factors” including the type of person the donation comes from, its amount and the type of donation. Clause 58 also confers on UK Ministers a regulation making power which can change the risk assessment factors.

91. Clause 58 extends the criminal offence in section 56 of PPERA of accepting a donation from a person who is not a permissible donor to include accepting a donation which is impermissible because the risk assessment duty applies to the donation and a risk assessment has not been carried out.

92. Clause 58 also requires existing quarterly donation reports prepared by parties under Schedule 6 of PPERA to include details of any donation refused because risk assessment was not done or because the donation failed the assessment. The details include the name and address of the donor (or apparent donor), or if unknown, details of how the donation was made; any known attempts at deception or concealment by the donor, and how these were uncovered; the date and method by which the donation was handled (e.g. returned to source or passed to the Commission).

93. The amendment prior to re-introduction¹³ to clause 58 of the Bill qualifies a regulation making power which allows the Secretary of State to amend the risk assessment factors for donations and regulated transactions (the statutory criteria donation recipients must use to assess the risk that a donation or regulated transaction (e.g. loan) originates from an impermissible source). The amendment provides that regulations amending the risk assessment factors only apply to Scottish devolved matters if the Secretary of State obtains the consent of the Scottish Ministers before making them.

94. Clause 58 of the Bill as amended also includes a power for the Electoral Commission to issue statutory Know Your Donor (KYD) guidance. This draft guidance is subject to approval by the Secretary of State before it can come into force. To ensure consistency across the UK, the UK Government wishes this guidance to be prepared on a UK-wide basis across all elements of the regime (including where this is devolved). The amendments provide that consultation is required with devolved governments before the Secretary of State can approve the draft guidance. The UK Government considers this to engage the requirement for legislative consent.

95. Clause 58 also introduces Schedule 8. Paragraph 2 of Schedule 8 extends the risk assessment requirement to regulated donees under Schedule 7 of PPERA. They must also risk assess donations over £11,180 (or smaller donations adding up to that amount over a calendar year) within 30 days. The risk assessment duty works in the same way as it does for registered parties. The risk assessment factors are the same as those set out in clause 58. Where a change to the risk assessment

¹³ See amendments Gov 48, Gov 62 and Gov 70 at: https://publications.parliament.uk/pa/bills/cbill/59-01/0384/amend/representation_people_rm_pbc_0410.pdf

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factors by regulations would affect donations to independent councillors in Scotland (the regulation of which is within the legislative competence of the Scottish Parliament), that change can only take effect as regards independent councillors in Scotland with the consent of the Scottish Ministers.

96. Paragraphs 9 to 27 of Schedule 8 of the Bill mirrors the requirements for donations set out in clause 58 for regulated transactions such as loans and credit facilities extended to registered parties and regulated donees under Schedule 7 of PPERA. A person who proposes to enter a regulated transaction with a value of over £11,180 (or for smaller amounts adding to this amount over a calendar year) must risk assess the lender and must not enter the transaction (or must return the money) if they are not an authorised participant. Schedule 8 also creates a criminal offence of entering a regulated transaction without conducting a risk assessment where the risk assessment duty applied. This offence can only be committed by a registered party or its treasurer and is committed where the person “knew or ought reasonably to have known” that a risk assessment had not been carried out. This is an extension of the existing offence in section 71L which makes it an offence to enter a regulated transaction with a person who is not an authorised participant in circumstances where the party or treasurer knew or ought reasonable to have known they were not an authorised participant. Amendment Gov 114 provides that the maximum sentence a registered party or treasurer can receive in Scotland for committing the new offence at the statutory maximum (£10,000).

97. Paragraph 29 to 37 of Schedule 8 of the Bill extend the risk assessment duty in the same terms to donations to recognised third parties who are regulated under schedule 11 of PPERA. Where the risk assessment factors are amended in relation to recognised third parties in Scotland, this change can only take effect with the consent of the Scottish Ministers as regulation of donations to recognised third parties at Scottish Parliament and Scottish local elections are both within the competence of the Scottish Parliament.

98. Paragraphs 44 to 49 of Schedule 8 of the Bill extend the risk assessment duty to donations to candidates at UK Parliament elections and local elections throughout Great Britain (including Scotland). Where UK Ministers propose regulations to change the risk factors in relation to this donation type, those changes can only take effect in relation to local elections in Scotland with the consent of the Scottish Ministers. Additionally, paragraph 46 gives the Scottish Ministers a regulation making power by which they may change the risk assessment threshold from the proposed £11,180 to another figure. Regulations of this type are subject to negative procedure in the Scottish Parliament.

99. Amendments Gov 64 to 67, 101 to 104, 107 to 110 and 116 to 119 make the same amendment across all of the donation types to which the risk assessment duty applies. They clarify that the £11,180 threshold above which risk assessment applies is met where a single donor gives that amount either in one contribution or in multiple contributions over the course of a calendar year.

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100. Amendments Gov 68, 105, 111 and 121 again make the same amendment across all donation types to which the risk assessment duty applies. The amendments provide that the £11,180 threshold is measured using the total donated to, loaned to and guaranteed for a single recipient by a person in a calendar year. Separate multiple arrangements through which that person donates, lends or guarantees a total above £11,180 would therefore cause the risk assessment duty to apply. These amendments also clarify that a donation is received on the day it is accepted, and that loans and guarantees are received on the day they are entered into, as the timing of a contribution may be relevant to calculating a person's total contributions for the calendar year.

101. **Position on consent:** The Scottish Government agrees that amended clause 58 requires the consent of the Scottish Parliament as the amendments make provision for a purpose within the legislative competence of the Scottish Parliament as they apply to donations at local government election campaigns and to donations to recognised third parties at Scottish Parliament and Scottish local elections. The Scottish Government considers that consent is also required because the amendments would apply to any PPERA-regulated referendum held in Scotland on a devolved matter, such provision would be for a purpose within the legislative competence of the Scottish Parliament. While the Scottish Government welcomes moves to improve the law in this area the Government is in particular considering the case for a power for the Scottish Ministers to make changes in relation to Scottish Parliament elections. It wishes to engage further with the UK Government on these provisions prior to providing a view on legislative consent.

Clause 59 – Permissible donors not to include individuals under 16

102. Clause 59 aims to prevent under-16s from making donations to political parties and to enhance the protection of registration data for 14- and 15-year-old attainers (persons registering ahead of coming of voting age). The UK Government considers this to engage the legislative consent process.

103. Clause 59 amends the definition of “permissible donor” in PPERA. The definition applies to other donations regimes within PPERA including donations made to recognised third parties in connection with election campaigns for the Scottish Parliament and local government elections in Scotland, and donations made to candidates at local government elections in Scotland. The amendment will have the effect of preventing attainers from making donations under any of those donation regimes. Insofar as this amendment will apply to those devolved donation regimes, it is a provision for a purpose within the legislative competence of the Scottish Parliament and therefore triggers the need for legislative consent.

104. **Position on consent:** The Scottish Government agrees that this engages the legislative consent process, but it is engaging with the UK Government and considering its position ahead of a final view on consent.

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Clause 60 – Donations by companies and LLPs etc.

105. Clause 60 makes amendments to Part 4 of PPERA (control of donations to registered parties and their members etc.). The amendments are focussed on which companies and LLPs are classed as a “permissible donor” for the purpose of making donations to registered political parties, introducing three new requirements a company or LLP must meet to be a permissible donor.

106. Firstly, a significant control test under new section 54E or 54F of PPERA. Either no person should have significant control of the business (as defined by Part 21A and Part 1 of schedule 1A of the Companies Act 2006) or if a person does have significant control, one of three conditions set out in clause 60(3) must be met. These are (a) where only one person holds more than 50% of the shares or voting rights in the business, that person is either a registered elector in the UK or a British citizen residing in the UK, (b) where multiple persons have significant control, at least two of them who hold at least 25% of the shares or voting rights in the business each are registered electors in the UK or British citizens residing in the UK, and (c) that every person with significant control is either a registered elector in the UK or a British citizen resident in the UK.

107. Secondly the company or LLP has sufficient “remaining available revenue” to make the donation under new section 54H of PPERA. In the Bill as reintroduced a company’s remaining available revenue is arrived at by adding together its revenue (or in the case of a parent company, the group’s revenue) for the three years prior to the year in which the donation is made, then deducting the value of donations given to political parties and regulated transactions (loans and guarantees) entered into with political parties in the calendar year in which the new donation is made. A company or LLP is not a permissible donor if it has no “remaining available revenue”, in effect capping the value of political contributions. New section 54H(7) would allow UK Ministers to make regulations providing that certain revenue is ignored in this calculation.

108. Thirdly under new section 54I of PPERA the company or LLP must have delivered its accounts to Companies House for at least one of the financial years within the three calendar year reference period used for the available revenue calculation.

109. Section 56 of PPERA is amended such that a treasurer or party meets their duty to take “all reasonable steps” to verify that the company or LLP is a permissible donor if the conditions appear to be met based on the business’s filings with Companies House and there are no reasonable grounds to suspect that those filings are out of date.

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110. UK Government amendments Gov 70 to Gov 98 tabled on 7 July seek to amend clause 60¹⁴.

111. Amendments Gov 71 – 74 amend how the significant control test applies to where a company has multiple people with significant control and one or more of those people has significant control for a reason other than the size of the shareholding or voting rights. In that case in order for the business to be a permissible donor then each such person with that special type of significant control must be either a registered elector in the UK or a British citizen resident in the UK.

112. Amendment Gov 70 (see also Gov 75 to Gov 84, Gov 28, Gov 90, Gov 92 and Gov 94) seeks to replace the “remaining available revenue test” for donations to a registered party from a company or LLP with a profit-based test. A company or LLP will only be a permissible donor to a political party specifically up to the amount of their available profit (amendments Gov 28, 70, 75-77 and 79 mean that this will be “profit” instead of “revenue” as per the Bill on reintroduction). Gov 86 provides that when working out whether a business has used up all of its available profits, donations, loans and guarantees to political parties all count towards the calculation, whereas on reintroduction only donations and loans were counted.

113. Amendment Gov 93 seeks to amend the reference period used for the calculation of “remaining available profits” from three to five years. This also means the business must have filed its accounts with Companies House for one of the previous five years to meet the filing requirement in new section 54I as the same timeframe is used for both tests.

114. Amendment Gov 84 will amend the power allowing UK Government Ministers to make regulations to exclude certain types of revenue from the calculation under new section 54H(7) to a power to exclude certain types of income or expenses from the calculation of the profit available to the business for the purpose of giving to political parties. The Scottish Ministers are not to be consulted or asked for their consent to these regulations.

115. Other tabled UK Government amendments are part of the broader package of amendments around clause 60 and pending further discussion with the UK Government, the Scottish Government will provide a fuller analysis of these and whether/how they engage legislative consent. The amendments are as follows:

- **Gov 80 to 82** move from a calculation of revenue to a calculation of profit.
- **Gov 83** provides that business accounts prepared to “generally accepted accounting practice” standards is taken to be final.
- **Gov 90-93** provide definitions in the Bill for “GAAP compliant profit and loss account”, “regulated transaction” (loan to a political party) and financial year.

¹⁴ [rop_rm_rep_0707.pdf](#)

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- **Gov 94** removes a now redundant definition of “turnover” which was used in the revenue calculation previously.
- **Gov 95** relates to Companies House checks that a business is a permissible donor.
- **Gov 97** removes unnecessary language about regulation procedure.
- **Gov 98** and **Gov NS5** amend Part 4A of PPERA on regulated transactions (loans) and connected transactions (guarantees) to extend the requirement to check significant control, the filing requirement and the donations-capped-at-profits rule to giving by these methods too. This is to be checked each time the loan or guarantee terms change, whether to increase the amount or change who is lending the money.

116. The UK Government considers clause 60 as amended does engage the legislative consent process. The UK Government has acknowledged that the Scottish Parliament has the competence to create a definition of permitted donor for devolved purposes and that the definition of “permissible donor” in section 54 of PPERA is also used in devolved political finance law. The changes to section 54 proposed by clause 60 will therefore apply to some devolved elections.

117. **Position on consent:** The Scottish Government considers that clause 60 and the planned amendments described above require the consent of the Scottish Parliament. This is because Schedule 2A of the 1983 Act which regulates donations to candidates at Scottish local elections and article 36 of the Scottish Parliament (Elections etc.) Order 2015 which regulates donations to Scottish Parliament candidates uses the same definition of “permissible donor”. As clause 60 does not limit the changes it makes to the definition of “permissible donor” to particular elections or campaigns, these provisions will apply to devolved elections in Scotland and so make provision within the Scottish’s Parliament’s legislative competence to that extent.

118. The Scottish Government is continuing to engage with the UK Government on this provision in order to reach a position on consent.

Clause 61 – Forfeiture of certain donations to registered parties

119. Clause 61 introduces amendments to section 58 and 59 of PPERA and Schedule 4 to the Recall of MPs Act 2015 to clarify rules on forfeiting donations from individuals not registered in an electoral register at the time of donation.

120. Clause 61(2) inserts a new subsection (2A) to section 58 of PPERA to clarify that where a donation is received from an individual not registered in an electoral register at the time of receipt, it is immaterial whether that individual was entitled to be registered. It also adds new subsection (6) to section 58 defining what an “electoral register” means for the purposes of forfeiture and updates section 59 of PPERA to include reference to the new subsection for appeals against forfeiture orders.

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121. The UK Government considers that this clause engages the legislative consent process.

122. **Position on consent:** The amendment made by clause 61 applies in relation to regulated donees, recognised third parties in connection with election campaigns for Scottish Parliament elections and local government elections in Scotland, candidates at local government elections in Scotland and permitted participants in referendums that are devolved. As such, the Scottish Government agrees that this provision engages the legislative consent process, as it makes provision for a purpose with the legislative competence of the Scottish Parliament. It is considering its position ahead of a final view on consent in the context of the other changes to be made by Part 4 of the Bill.

Clause 62 – Unincorporated associations

123. As noted in the Scottish Government's second LCM, clause 62 of the Bill introduces Schedule 9 and summarises the provisions in that schedule. Schedule 9, both as originally introduced and as amended prior to re-introduction, makes provision regarding unincorporated associations ("UAs") making political contributions. Schedule 9 amends Schedule 19A of PPERA which concerns notification and reporting requirements on UAs with regard to political contributions made, and gifts received, by them. The amendments made by Schedule 9 at introduction included:

- reduction of the threshold at which UAs must notify the Electoral Commission of political contributions made by them from £37,270 to £11,180 and of gifts received by them from £11,180 to £2,230;
- expansion of the definition of political contribution to include donations at additional types of elections including a donation to a permitted participant in a Scottish referendum (within the meaning of Part 5 of Schedule 3 of the Referendums (Scotland) Act 2020);
- new provision requiring UAs to appoint a responsible person in relation to the association and notify the Electoral Commission of this; and
- new provisions prohibiting UAs from using gifts over £500 from impermissible donors to make political contributions and introducing an associated offence.

124. The amendments¹⁵ agreed at Committee stage make a number of changes to Schedule 9 of the Bill, some of which are technical or clarificatory in nature. They also adjust clause 62 to reflect the changes made to Schedule 9. The main changes to Schedule 9 include:

- creation of a new criminal offence where a person knowingly provides a UA with false information, or withholds information with intent to deceive;

¹⁵ [representation_people_rm_pbc_0410.pdf](#) amendments Gov 79 - 87

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about a gift that they believe the association may use for the purposes of making a political contribution;

- preventing UAs from being permissible donors in relation to other UAs; and
- amendments to provisions on responsible persons for UAs to make it clear that an association is not required to appoint a responsible person when it already has one in place, but that the Electoral Commission must be notified that the responsible person is willing to continue to act.

125. The UK Government considers that clause 62 (including Schedule 9), both as originally introduced and as amended are for reserved purposes and do not engage the legislative consent process. This is on the basis that the regulation of unincorporated associations is a reserved matter.

126. **Position on consent:** The Scottish Government still considers that the amended Schedule 9 requires the consent of the Scottish Parliament as it makes provision for a purpose within the Scottish's Parliament's legislative competence to the extent that they apply to devolved referendums and local government elections in Scotland. While the amendments concern unincorporated associations, the purpose of the amendments is to regulate political contributions made by unincorporated associations rather than to regulate unincorporated associations as business associations. The Scottish Government is continuing to engage with the UK Government on this provision.

Clause 63 – Power of Scottish Ministers to vary sums in Schedule 7 to PPERA

127. As noted in the Scottish Government's second LCM, clause 63 of the Bill inserted by amendment¹⁶ at Committee Stage seeks to grant the Scottish Ministers power to vary the sums in Schedule 7 (control of donations to individuals and member associations) of PPERA so the Scottish Ministers can vary the threshold at which Know Your Donor risk assessments become mandatory in relation to a donation to a member of a local authority in Scotland who is not also a member of a registered party.

128. **Position on consent:** The Scottish Government continues to agree that legislative consent is required for this provision as it creates a power with a purpose within the Scottish's Parliament's legislative competence, namely the regulation of local government election finance for candidates not a member of a registered party and alters the executive competence of the Scottish Ministers by granting them a power to vary the sums in Schedule 7 of PPERA. The Scottish Ministers are considering their position ahead of a final view on consent on all of Part 4.

¹⁶https://publications.parliament.uk/pa/bills/cbill/59-01/0384/amend/representation_people_rm_pbc_0410.pdf - see Gov NC60

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Clause 64 – Electronic material promoted by third parties

129. As noted in the first LCM, clause 64 of the Bill makes provision in relation to ‘Digital Imprints’ which require political campaigners to explicitly show who they are and on behalf of whom they are promoting digital campaigning material. Clause 64 amends the digital imprint provisions in the Election Act 2022 to require any person who is an unrecognised third-party campaigner, with the exception of individuals, to include a digital imprint on electronic material in scope of the UK-wide regime. The UK Government is effectively adopting the additional digital imprint requirement already created for Scottish Parliament and local government elections by the 2025 Act, which required unregistered third-party organisations to provide a digital imprint on campaign material. As a result, the Bill seeks to repeal Part 8 of the 2025 Act, which contained these additional digital imprint requirements as these will now form part of the UK-wide regime.

130. The UK Government does not consider that legislative consent is required for clause 64.

131. **Position on consent:** The Scottish Government’s continued position is that clause 64 makes provision for a devolved purpose, in so far as the new requirements in the Elections Act 2022 relate to devolved elections and, therefore, trigger the need for legislative consent. Part 8 of the 2025 Act also included powers enabling the Scottish Ministers to make regulations to amend certain sections of that Act, including changing the information required on a digital imprint and modifying other aspects of the regime. These regulation-making powers will be lost because of the repeal of Part 8 of the 2025 Act. This repeal of the regulation making powers in Part 8 of the 2025 Act alters the executive competence of the Scottish Ministers, triggering the need for legislative consent.

132. While sympathetic to the policy rationale behind the proposed changes, the Scottish Government remains concerned that the Bill as drafted will remove the Scottish Parliament’s role in approving Electoral Commission guidance in this area, which is required by the 2025 Act¹⁷, but not by the Bill’s changes. A recommendation on consent is not made at this time, while discussion remains underway with the UK Government.

Part 5 – Enforcement and the Electoral Commission

Overview

133. The Scottish Government’s consideration of Part 5 of the Bill is ongoing, but it agrees with the UK Government that consent will be required for these provisions in part. The UK Government indicates that the Bill seeks to expand the Electoral Commission’s investigatory and civil sanctioning powers to ensure enforcement provides a clear deterrent against breaking the law whilst remaining proportionate. It

¹⁷ <https://www.legislation.gov.uk/asp/2025/4/section/58/enacted>

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will extend the Commission's enforcement remit to candidate, local third party and recall petition campaigner political finance offences and all print imprint offences. The extension of the Commission's investigatory and civil sanctioning powers to candidates and local third parties to local government elections in Scotland will engage the legislative consent process.

134. The Scottish Government acknowledges the benefits of potential changes in this area and has noted the assessment of the Electoral Commission that "Decriminalising administrative offences would create a more proportionate enforcement system, where legislation targets those actively seeking to evade regulation rather than focusing enforcement efforts on low-level offences that could be better addressed through our advice or guidance."¹⁸

Clause 66 – Decriminalisation of certain requirements

135. Clause 66 introduces Schedule 10, which decriminalises offences relating to administrative requirements under PPERA and makes the requirements and restrictions to which those offences relate enforceable only by the Electoral Commission through its investigatory and civil sanctioning powers. Clause 66 also clarifies that Schedule 10 has no effect in relation to the enforcement of offences that are committed prior to this section coming into force.

136. Schedule 10 is concerned with the decriminalisation of certain administrative offences. Part 1 of Schedule 10 details the amendments to PPERA which have the effect of abolishing specific offences which relate to administrative restrictions and requirements for registered parties, recognised third parties, permitted participants in referendums, and unincorporated associations. Those restrictions and requirements will be prescribed in secondary legislation – making them only subject to enforcement by the Electoral Commission. Part 2 of Schedule 10 makes amendments to related legislation as a consequence of the removal of the offences detailed in Part 1.

137. Paragraphs 5 and 6 of Schedule 10 make amendments to PPERA to decriminalise certain offences in relation to registered parties, namely failure of the delivery or compliance with the requirements of campaign expenditure returns and failure for such a return to be accompanied by a declaration when contravened by the treasurer. These offences relate to the regulated campaign period, which is devolved when determined by reference to a Scottish Parliament election only.

138. Paragraphs 9 to 12 of Schedule 10 make amendments in relation to third parties in devolved and reserved elections. These provisions also relate to the regulated campaign period which is devolved when determined by reference to a Scottish Parliament election only.

¹⁸ [Briefing on Representation of the People Bill: Commons Second Reading | Electoral Commission](#)

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139. Paragraphs 13 and 14 of Schedule 10 make amendments in relation to returns for referendum expenses, where that referendum is held under an Act of the UK Parliament. Paragraphs 13 and 14 of Schedule 10 would apply to any PPERA-regulated referendum held in Scotland on a devolved matter.

140. Paragraph 16 which removes the criminal penalties for the relevant administrative offences, which are being abolished, which includes offences related to devolved elections.

141. The UK Government's position is that clause 66 and Schedule 10 require the legislative consent of the Scottish Parliament.

142. **Position on consent:** The Scottish Government agrees these provisions trigger the need for legislative consent as they make provision for a purpose within the legislative competence of the Scottish Parliament, being the decriminalisation of offences which would apply during a PPERA-regulated devolved referendum in Scotland or during the devolved regulated campaign period for Scottish Parliament elections. The Scottish Government acknowledges the benefits of potential changes in this area and is considering its position further on recommending legislative consent, whilst discussing aspects with the UK Government.

Clause 67 and Schedule 11 – Extension of Electoral Commission's enforcement functions

143. Clause 67 and Schedule 11, which it introduces, makes provision for the extension of the Commission's investigatory and civil sanctioning powers to electoral finance and imprint offences committed by candidates and third parties.

144. The Electoral Commission can currently enforce civil sanctions for failure to comply with certain electoral finance rules within PPERA. The effect of clause 67 is that identified offences that are currently criminal offences due to candidates and local third parties' failure to comply with the election finance rules under the 1983 Act or some digital imprint offences under the Elections Act 2022, will now become 'prescribed offences'. This means that the identified offences can be referred to the police for criminal investigation or be dealt with and enforced via civil sanctions by the Electoral Commission. The clause makes necessary amendments to PPERA and other electoral legislation to enable this, and also extends the Electoral Commission's remit and civil sanctioning powers. The amendments in this clause apply to offences that can be committed during local government elections in Scotland.

145. Clause 67 also extends the existing power to make supplemental provision under paragraph 16 of Schedule 19C PPERA to prescribe certain offences under legislation other than PPERA. The new provision enables an offence to be prescribed if it is an offence under PPERA, an electoral finance offence (i.e. an offence relating to donations and expenses under the 1983 Act), an imprint offence (i.e. an offence relating to imprints on campaign material) or a recall campaign

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offence (i.e. an offence relating to donations and expenses under the Recall of MPs Act 2015). The Scottish Ministers can exercise these powers to make supplementary provision to the extent that it is within devolved competence.

146. Clause 67 also introduces Schedule 11 which makes changes to the Electoral Commission's enforcement functions in PPERA.

147. Paragraphs 2 to 4 of Schedule 11 extend the Electoral Commission's enforcement functions and duties beyond PPERA. This reflects the broadening of the Electoral Commission's role. These provisions will apply to local government elections in Scotland.

148. Paragraph 5 amends section 148 of PPERA, which provides general offences in relation to the avoidance of the legal requirements of PPERA by tampering with documents, hiding or destroying documents, refusing to provide information when required, or deliberately giving false or misleading information. Paragraph 5 clarifies and defines the intent requirements, extends the general offences so that they apply to any relevant enactment which confers functions on the Electoral Commission, and specifies applicable persons which are relevant in relation to the general offences.

149. Paragraph 6 inserts definitions of "candidate", "election" and "election agent" for the purposes of for the purposes of section 145 to 148 and Schedules 19B and 19C to PPERA. Paragraph 7 makes a procedural amendment to ensure that an order made under certain provisions under paragraph 16 of Schedule 19C remains subject to the affirmative procedure. Paragraph 8 amends Schedule 19B of PPERA to extend the Electoral Commission's investigatory powers to candidates, local third-party campaigners and recall petition campaigners, and offences which will be brought within the Electoral Commission's remit.

150. Paragraph 9 amends Schedule 19C of PPERA to extend the Electoral Commission's civil sanctions regime. The amendments apply the Electoral Commission's civil sanctions powers to offences under the 1983 Act. The Electoral Commission are also given the ability to impose fixed monetary penalties, discretionary requirements, stop notices and accept undertakings in respect of prescribed offences committed by election agents, with liability attaching to relevant electoral candidates. Further procedural modifications ensure that the civil sanctions framework can operate effectively across this broader range of legislation.

151. The UK Government considers that clause 67 and Schedule 11 require legislative consent.

152. **Position on consent:** The Scottish Government agree with the UK Government that the need for legislative consent is triggered. Clause 67 and Schedule 11 make provision for a purpose within the legislative competence of the Scottish Parliament, being the Scottish Parliamentary and local government elections in Scotland, and clause 67 alters the executive competence of the Scottish Ministers. The Scottish Government acknowledges the benefits of potential changes

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in this area but is still considering a recommendation on legislative consent, whilst discussing the changes made by this Part with the UK Government.

Amendments Gov125, Gov126, Gov127, Gov129 and Gov131 – (Extension of Electoral Commission’s enforcement functions)

153. Amendment Gov129 (Extension of Electoral Commission’s enforcement functions) along with amendments Gov125, Gov126, Gov127 and Gov131 amend Schedule 11 of the Bill.

154. These changes will enable the Electoral Commission to issue a disclosure notice to any person or organisation requiring them to produce documents or provide information or explanations about the income and expenditure of person’s mentioned in paragraph 1(1) of Schedule 19B (i.e. regulated recipients). The amendments also enable the Electoral Commission to apply to the High Court, or the Court of Session in Scotland, for a document-disclosure order requiring the person to provide the documents, information, or explanation requested by them. Failure of a person to provide such documents/information/explanation ordered by the court could result in that person either being held in contempt of court or being convicted of an offence under paragraph 13(1) of Schedule 19B to PPERA.

155. **Position on consent:** The UK Government considers that amendments Gov125 to Gov131 require the legislative consent of the Scottish Parliament. The Scottish Government considers that legislative consent is required to this change to the extent that the amendments apply and have regard to devolved matters, such as donations to candidates and third parties in connection with devolved elections. It is considering further on legislative consent, whilst discussing the changes made by this Part with the UK Government.

Clause 68 – Abolition of maximum penalties in respect of offences triable summarily

156. Clause 68 amends Schedule 19C to PPERA to remove the limit of the financial penalties payable where a fixed or variable monetary penalty is imposed in respect of certain offences, i.e. where offences are triable summarily by a court and punishable on summary conviction by a fine. At present the amount of the penalty imposed by the Electoral Commission may not exceed that which can be imposed by the court. The maximum fine that can be imposed by a court in such instances is unlimited in England and Wales, £10,000 in Scotland, and £5,000 in Northern Ireland. This means that the maximum fine presently available differs across all relevant offences across the UK. Secondary legislation will be used to increase the maximum fine which the Electoral Commission may impose.

157. The UK Government consider that legislative consent is needed for this clause.

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158. **Position on consent:** The Scottish Government agrees this clause triggers the need for legislative consent as it makes provision for a purpose, being Scottish Parliament and local government elections in Scotland, within the legislative competence of the Scottish Parliament. The Scottish Government is considering further its position on recommending legislative consent, whilst discussing the changes made by this Part with the UK Government.

Clause 69 – Civil sanctions orders: combining reserved and devolved provision

159. Clause 69 grants UK Ministers a delegated power to make a supplementary order (under paragraph 16 of Schedule 19C) which could be made by the Welsh or Scottish Ministers. This power gives the Secretary of State power to make devolved provision in relation to Scotland.

160. A supplementary order could be used to make provision applying or amending the Electoral Commission's civil sanction regime in respect of offences for local government elections in Scotland (following the amendments made by clause 67) and relevant offences in Parts 5 & 6 of PPERA occurring during a devolved regulated period for a Scottish Parliament election. The power may only be exercised in relation to matters devolved to the Scottish Parliament with the consent of Scottish Ministers where that order contains provision that the Scottish Ministers could make themselves.

161. This would enable the UK Government to make a unified set of changes to the Civil Sanctions Order. The Civil Sanctions Order gives the Electoral Commission the power to impose civil penalties, such as fines and compliance notices, for certain breaches of electoral and political finance law. The UK Government's position is making changes for both reserved and devolved elections in a single instrument would ensure consistency and clarity for campaigners, supervised parties, organisations, and the Electoral Commission where the policy intention aligns.

162. The UK Government's position is that this clause triggers the need for legislative consent.

163. **Position on consent:** The Scottish Government agrees with the UK Government that the provision requires consent as it makes provision for a purpose within the legislative competence of the Scottish Parliament being Scottish parliament and local government elections in Scotland, and alters the executive competence of the Scottish Ministers. It is considering its position further on legislative consent, whilst discussing the changes made by this Part with the UK Government.

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Amendment NC 78 and Amendment Gov 99 – Sharing of information between Electoral Commission and others (replacing clause 71)

164. UK Government Amendment NC 78 from July¹⁹ seeks to insert a new clause replacing clause 71 (Disclosure of information by Electoral Commission), which is to be removed by amendment Gov 99²⁰. The new clause (sharing of information between Electoral Commission and others) adds to PPERA sections 148B (Disclosure of information to Commission), 148C (Disclosure of information by Commission), 148D (Information disclosed by the Revenue and Customs), 148E (Information disclosed by the Welsh Revenue Authority), 148F (Information disclosed by Revenue Scotland), 148G (Meaning of “relevant public authority”), (148H Interpretation of sections 148B to 148G) and amending section 156 and schedule 20 of PPERA. These new sections establish a reciprocal information-sharing gateway between the Electoral Commission and relevant public authorities, extend the range of public authorities to which the gateway applies, and restrict the onward disclosure of information obtained from a revenue authority.

165. A ‘relevant public authority’ is defined in new section 148G (meaning of “relevant public authority”) and includes devolved public authorities such as the Police Investigations and Review Commissioner, the Police Service of Scotland, Revenue Scotland, and the Scottish Parliamentary Corporate Body. It also includes officers involved in elections, such as Returning Officer and EROs and this will include their capacity for Scottish Parliament and local government elections. It also includes a ‘government department’, which is not further defined. New section 148G also provides the Secretary of State with the power to make regulations to vary the definition of a ‘relevant public authority’ which is subject to consultation with and/or recommendation of the Electoral Commission.

166. New section 148B (disclosure of information to Commission) places a power on ‘relevant public authorities’ to disclose information to the Electoral Commission for the purpose of assisting the Commission with its functions. New section 148C (disclosure of information by Commission) of PPERA confers a power on the Electoral Commission to disclose information to ‘relevant public authorities’ for the purpose of assisting the performance of the authority’s functions. The relevant public authorities for the purposes of these provisions are those defined in section 148G, which include devolved public authorities. New section 148F (information disclosed by Revenue Scotland) applies to disclosure by Revenue Scotland and provides that where it discloses information to the Electoral Commission under these new provisions, the Commission cannot disclose that information further without their consent.

167. The UK Government do not think these provisions trigger the need for legislative consent. They consider the general powers of the Electoral Commission in relation to disclosure of information to other regulatory or enforcement bodies or the

¹⁹ [rop_rm_rep_0707.pdf](#)

²⁰ [rop_rm_rep_0707.pdf](#)

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potential to receive information from those bodies is reserved as this is related to the Electoral Commission's general functions.

168. **Position on consent:** The Scottish Government considers these provisions trigger the need for legislative consent as it would be within the competence of the Scottish Parliament to make a provision enabling a devolved public authority to provide information to the Electoral Commission or enabling the Electoral Commission to obtain information for the purposes of local government elections in Scotland, and to that extent the provision has a devolved purpose and triggers the need for consent. The Scottish Government is considering their position further on recommending legislative consent.

Part 7 – General

169. Clause 77 allows the UK Government Secretary of State to make provision in regulations as a consequence of the Bill. It includes a power to amend primary legislation (including devolved primary legislation) in consequence of the Bill, and if used in this way is subject to the affirmative procedure. It also includes a power to make transitional or savings provision. The UK Government's position is that this provision does not require legislative consent.

170. **Position on consent:** This power could be used to make consequential provision in respect of elections devolved to the Scottish Parliament in consequence of provision made in respect of the Bill. Therefore, the Scottish Government considers that clause 77 is made for a purpose within the legislative competence of the Scottish Parliament to that extent and triggers the need for legislative consent. The Scottish Government is considering its position further on recommending legislative consent to this provision.

Reasons for not making a recommendation on all aspects of legislative consent

171. Whilst the paragraphs above set out the Scottish Government's positions on specific clauses in the Bill, the need for legislative consent in relation to other clauses, in particular the complex new proposals for Parts 4 and 5 of the Bill, remains under consideration and discussion between the Scottish Government and the UK Government, and an update will be provided in a supplementary LCM in due course and in the context of further relevant amendments being anticipated in the autumn.

Consultation

172. The Scottish Government has discussed the Bill with electoral stakeholders such as the Association of Electoral Administrators, the Electoral Commission, the Electoral Management Board for Scotland, and the Scottish Assessors Association. The Commission's detailed assessment of the Bill is provided on its [website](#) and the

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position of the AEA, EMB and SAA are set out in evidence on the UK Parliament's webpage on the Bill.²¹ The Scottish Parliamentary Corporate Body and Crown Office and Procurator Fiscal Service may also have an interest in relation to the changes to the Electoral Commission's powers and the reclassification of electoral offences and these provisions have been highlighted to those organisations.

Financial implications

173. Financial implications in Scotland will primarily be a matter for the UK Government in relation to changes to UK Parliament elections, especially on votes at 16 and voter registration. It is expected that the UK Government will meet any such costs as part of the 'new burdens' regime. Changes which also interact with devolved electoral law, such as those on campaign finance and the Electoral Commission will be assessed further in consultation with electoral stakeholders, prior to the Scottish Government's final position on legislative consent being communicated.

Other relevant considerations

174. It is anticipated that further amendments to the Bill will be proposed during the Bill's passage and that a future supplementary Legislative Consent Memorandum on the Bill will need to consider any changes, in addition to those matters where a position on consent has not been provided by this Memorandum.

Post EU scrutiny

175. This legislation is not relevant to the Scottish Government's policy to maintain alignment with the EU because the Bill is confined to UK electoral law. There is no anticipated interaction with EU law.

Conclusion

176. The Scottish Government is giving careful consideration to the Bill and wishes to consult further with interested stakeholders and the UK Government prior to providing a full assessment of legislative consent to the Parliament. In meantime, it recommends consent to the following provisions:

Clause 30 - a new power on the Scottish Ministers regarding declarations of local connection for registration in the register of local government electors in Scotland. It is considered that this power will assist steps to keep the electoral register up to date.

Clause 32 - provision on anonymous registration regarding Scottish Parliament and local government elections, changing the period from one to three years. It is acknowledged that continuing with a one year period in

²¹ [Representation of the People Bill publications - Parliamentary Bills - UK Parliament](#)

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respect of the local government register when the UK Parliament register had moved to a longer timeframe would cause inconvenience and confusion for voters.

Clause 33 – a clearly defined registration deadline for elections across the UK and a power for Scottish Ministers to change the registration application deadline for Scottish Parliamentary and local government elections following consultation with the Electoral Commission. It is considered that consent is desirable in order to have one consistent position across election types in this area, avoiding the potential for confusion.

Clause 36 – amendment to an existing power of the Scottish Ministers on voter registration and a new regulation making power in relation to the disclosure of information and the inspection of records in relation to the registration officer's functions and duties. It is expected that this change will provide benefits in seeking to improve the registration of electors.

Clause 37 – changing the 'open' register of electors from an 'opt out' model to one of opting in. It is accepted that refusal of consent to this change would result in voter confusion. It would in particular result in the UK Parliament register requiring a voter 'opt in' while the local government register required a voter 'opt out'.

Clause 48 and Schedule 3 – changes on absent voting. It is considered that consent is required to the changes here to avoid unpicking the convergence put in place to allow voters to register online for postal and proxy votes for Scottish Parliament and local government elections from November 2026 onwards.

Draft motion on legislative consent

177. For the reasons noted above, the Government intends to provide a draft motion on consent in relation to the Bill when a full position on consent can be provided.

Scottish Government
August 2026

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