

# Scottish Elections (Representation and Reform) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:  
Explanatory Notes (SP Bill 42-EN), a Financial Memorandum (SP Bill 42-FM), a Policy  
Memorandum (SP Bill 42-PM), a Delegated Powers Memorandum (SP Bill 42-DPM) and  
statements on legislative competence (SP Bill 42-LC).**

# Scottish Elections (Representation and Reform) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make further provision about eligibility of elected representatives in the Scottish Parliament and in local government and to reform certain aspects of the law relating to Scottish parliamentary and local government elections

## PART 1

5 CANDIDACY RIGHTS ETC. OF FOREIGN NATIONALS

### 1 Scottish Parliament elections

- (1) The Scotland Act 1998 is modified as follows.
- (2) In section 16 (exceptions and relief from disqualification)—
  - (a) in subsection (2B), for paragraph (b) substitute—

10 “(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.”,

- (b) subsection (2C) is repealed.

### 2 Local government elections

- (1) The Local Government (Scotland) Act 1973 is modified by subsections (2) and (3).
- (2) In section 29 (qualifications for nomination, election and holding office as member of local authority)—
  - (a) in subsection (1), the words “or a schedule 6A national” are repealed,
  - (b) in subsection (5), the words “or a schedule 6A national” are repealed,
  - (c) in subsection (6), for paragraph (b) substitute—

20 “(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.”,

- (d) subsections (7) and (8) are repealed.

- (3) Schedule 6A (candidacy rights of foreign nationals) is repealed.

- (4) The Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022 is repealed.

## PART 2

### DISQUALIFICATION

#### *Scottish disqualification orders*

### **3 Scottish disqualification orders**

- (1) This section applies where—
- (a) a person (“the offender”) is convicted of an offence specified in the schedule,
  - (b) the offender was aged 18 or over when the offence was committed, and
  - (c) the court is satisfied beyond reasonable doubt that the offence is aggravated by hostility related to persons falling within any of sections 4 to 6.
- (2) The court must, when dealing with the offender for the offence, also make an order (a “Scottish disqualification order”) in respect of the offender which—
- (a) is to have effect for the period of 5 years beginning with the date on which the order is made, and
  - (b) makes the person subject to the disqualifications in—
    - (i) section 15(1)(ba) of the Scotland Act 1998, and
    - (ii) section 31(1)(e) of the Local Government (Scotland) Act 1973.
- (3) Subsection (2) does not apply where the court considers that there are particular circumstances relating to the offence or to the offender which would make it unjust in all the circumstances to make the order; and in such a case the court must state in open court the reasons for not making the order.
- (4) For the purposes of this section an offence is aggravated by hostility related to persons falling within any of sections 4 to 6 if—
- (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on the victim being (or being presumed to be) a person falling within any of sections 4 to 6, or
  - (b) the offence was motivated (wholly or partly) by hostility towards persons falling within any of those sections in their capacity as such.
- (5) For the purposes of subsection (4) it is immaterial whether or not the offender’s hostility is also based, to any extent, on any other factor not mentioned in that subsection.
- (6) For the purpose of deciding whether to make a Scottish disqualification order the court may consider evidence led by the prosecution and the defence.
- (7) It is immaterial whether evidence led in pursuance of subsection (6) would have been admissible in the proceedings in which the offender was convicted.
- (8) Where an offence specified in the schedule is found to have been committed—
- (a) over a period of 2 or more days, or
  - (b) at some time during a period of 2 or more days,

it is to be taken for the purposes of subsection (1)(b) to have been committed on the last of those days.

- (9) In this section, “presumed” means presumed by the offender.

#### 4 Returning officers

- (1) A person falls within this section if the person is—

- (a) a returning officer, or
- (b) a member of a returning officer’s staff.

- (2) In this section—

“a member of a returning officer’s staff” means a person who is employed by, or working under the direction of, a returning officer in a role the duties of which relate to the returning officer’s functions,

“a returning officer” means an officer who is—

- (a) appointed under section 41(1) of the Representation of the People Act 1983 (returning officers: local elections in Scotland),
- (b) a constituency returning officer by virtue of an order under section 12(1) of the Scotland Act 1998,
- (c) an officer designated in accordance with an order under section 12(6) of that Act (a regional returning officer).

#### 5 Registration officers

- (1) A person falls within this section if the person is—

- (a) a registration officer, or
- (b) a member of a registration officer’s staff.

- (2) In this section—

“a member of a registration officer’s staff” means a person who is employed by, or working under the direction of, a registration officer in a role the duties of which relate to the registration officer’s functions,

“a registration officer” means an officer who is appointed under section 8(3) of the Representation of the People Act 1983 (registration officers).

#### 6 Counting officers

- (1) A person falls within this section if the person is—

- (a) a Chief Counting Officer,
- (b) a deputy of the Chief Counting Officer
- (c) a counting officer,
- (d) a deputy of the counting officer,
- (e) a member of the Chief Counting Officer’s staff,
- (f) a member of a counting officer’s staff.

(2) In this section—

“Chief Counting Officer” means the person appointed under section 7(1) or (6) Referendums (Scotland) Act 2020 (Chief Counting Officer),

“counting officer” means a person appointed under section 8(1) or (5) of that Act (other counting officers),

“deputy of the Chief Counting Officer” means a person appointed under section 7(7) of that Act,

“deputy of the counting officer” means a person appointed under section 8(6) of that Act,

“member of the Chief Counting Officer’s staff” means a member of staff appointed or provided under section 9(9) of that Act (functions of the Chief Counting Officer and other counting officers),

“member of the counting officer’s staff” means a member of staff provided under section 9(10) of that Act.

## **7 Effect of order: Scottish Parliament**

(1) The Scotland Act 1998 is modified as follows.

(2) In section 15(1) (disqualification from membership of the Parliament), after paragraph (b) insert—

“(ba) the person is subject to a Scottish disqualification order under section 3 of the Scottish Elections (Representation and Reform) Act 2024,”.

## **8 Effect of order: local government**

(1) The Local Government (Scotland) Act 1973 is modified as follows.

(2) In section 31(1) (disqualifications for nomination, election and holding office as member of local authority),

(a) the word “or” immediately following paragraph (b) is repealed,

(b) the word “or” immediately following paragraph (c) is repealed,

(c) after paragraph (d) insert “, or—

(e) the person is subject to a Scottish disqualification order under section 3 of the Scottish Elections (Representation and Reform) Act 2024,”.

## **9 Power to amend the schedule**

(1) The Scottish Ministers may by regulations modify the schedule so as to add or remove an offence.

(2) Regulations under this section are subject to the affirmative procedure.

### *Disqualification orders under Elections Act 2022*

## **10 Scottish Parliament: disqualification from membership**

(1) The Scotland Act 1998 is modified as follows.

- (2) In section 15(1) (disqualification from membership of the Parliament), after paragraph (ba) (inserted by section 7), insert—

“(bb) the person is subject to a disqualification order under section 30 of the Elections Act 2022 (disqualification of offenders from holding elective office etc).”.

## 11 Local authorities: disqualifications for nomination, election and holding office

- (1) The Local Government (Scotland) Act 1973 is modified as follows.
- (2) In section 31 (disqualifications for nomination, election and holding office as member of local authority), in subsection (1), after paragraph (e) (inserted by section 8) insert “or

(f) the person is subject to a disqualification order under section 30 of the Elections Act 2022 (disqualification of offenders from holding elective office etc).”.

### *Temporary relief from disqualification*

## 12 Persons holding office: temporary relief from effect of disqualification

- (1) The Scotland Act 1998 is modified by subsections (2) and (3).
- (2) In section 16 (exceptions and relief from disqualification)—

(a) after subsection (1) insert—

“(1A) A person who is subject to a relevant order is not disqualified merely because of section 15(1)(ba) or (bb) until the appropriate time, namely—

- (a) the end of the period of 3 months beginning with the order date, or  
(b) if earlier, the end of the period allowed for making an appeal against the conviction or the making of the order.

(1B) But if, before the appropriate time mentioned in subsection (1A), the person appeals against the conviction or the making of the order, the person is disqualified at the end of the period of 3 months beginning with the order date unless—

- (a) the appeal is dismissed or abandoned at any earlier time (in which case the person is disqualified at that time), or  
(b) at any time within that period of 3 months the appeal against the conviction or the making of the order is upheld (in which case the person is not disqualified).”.

(b) in subsection (3), for “15(1)(b)” substitute “15(1)(b), (ba) or (bb)”,

(c) after subsection (5) insert—

“(6) In this section—

“order date” means the date on which the relevant order is made by the court,

“relevant order” means—

(a) a Scottish disqualification order under section 3 of the Scottish Elections (Representation and Reform) Act 2024 (Scottish disqualification orders),

5 (b) a disqualification order under section 30 of the Elections Act 2022 (disqualification of offenders from holding elective office etc).”.

(3) In section 17 (effect of disqualification)—

(a) in subsection (4), after “subject to” insert “section 16(1A) and”,

(b) for “that section” substitute “those sections”.

10 (4) The Local Government (Scotland) Act 1973 is modified by subsection (5).

(5) In section 31 (disqualifications for nomination, election and holding office as member of local authority)—

(a) after subsection (1) insert—

15 “(1ZA) But a person who is subject to a relevant order is not disqualified merely because of subsection (1)(e) or (f) until the appropriate time, namely—

(a) the end of the period of 3 months beginning with the order date, or

(b) if earlier, the end of the period allowed for making an appeal against the conviction or the making of the order.

20 (1ZB) But if, before the appropriate time mentioned in subsection (1ZA), the person appeals against the conviction or the making of the order, the person is disqualified at the end of the period of 3 months beginning with the order date unless—

(a) the appeal is dismissed or abandoned at any earlier time (in which case the person is disqualified at that time), or

25 (b) at any time within that period of 3 months the appeal against the conviction or the making of the order is upheld (in which case the person is not disqualified).”.

(b) after subsection (3B) insert—

“ (4) In this section—

30 “order date” means the date on which the disqualification order is made by the court,

“relevant order” means—

35 (a) a Scottish disqualification order under section 3 of the Scottish Elections (Representation and Reform) Act 2024 (Scottish disqualification orders),

(b) a disqualification order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc).”.

*Section 15 of the Scotland Act 1998*

**13 Ending ambulatory effect of section 15 of the Scotland Act 1998**

40 (1) The Scotland Act 1998 is modified as follows.

- (2) In section 15(1) (disqualification from membership of the Parliament)—
- (a) in paragraph (a)—
    - (i) for “he is” substitute “the person would be”,
    - (ii) at the end of the paragraph insert “as that Act had effect on 27 April 2022”,
  - (b) in paragraph (b)—
    - (i) for “he is disqualified otherwise than under that Act” substitute “the person would be disqualified”,
    - (ii) at the end of the paragraph insert “under any other enactment or rule of law as that enactment or rule of law had effect on 27 April 2022”.

### PART 3

#### CAMPAIGN FINANCE

##### *Expenditure in respect of Scottish Parliament elections*

#### **14 Notional and third party expenditure: Scottish Parliament elections**

- (1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.
- (2) In section 73 (notional campaign expenditure), in subsection (1A)—
- (a) after “paragraph 3,” insert “5,”,
  - (b) after “parliamentary general elections” insert “, general elections to the Scottish Parliament”.
- (3) In section 86 (notional controlled expenditure), in subsection (1A)—
- (a) after “paragraph 3,” insert “5,”,
  - (b) after “parliamentary general elections” insert “, general elections to the Scottish Parliament”.
- (4) In section 94 (limits on controlled expenditure by third parties), in subsection (8A)—
- (a) after “paragraph 3,” insert “5,”,
  - (b) after “parliamentary general elections” insert “, general elections to the Scottish Parliament”.

#### **15 Third parties capable of giving notification**

- (1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.
- (2) In section 88 (third parties recognised for the purposes of Part 6), after subsection (10), insert—
- “(11) The Scottish Ministers may by regulations amend subsection (2), as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 5 of schedule 10 (general elections to Scottish Parliament), by—
- (a) adding a description of third party to the list in that subsection,
  - (b) removing a description of third party from that list, or
  - (c) varying the description of a third party in that list.

(12) Regulations under subsection (11)(b) or (c) may only be made where the regulations give effect to a recommendation of the Commission.”.

(3) In section 156 (orders and regulations), in subsection (4D)—

(a) after “apply to” insert “any regulations under section 88(11) or”, and

(b) for “such order” substitute “such regulations or orders”.

## 16 Restriction on which third parties may incur controlled expenditure

(1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.

(2) After section 89A insert—

**“89B Restriction on which third parties may incur controlled expenditure:  
 Scottish Parliament elections**

(1) No amount of controlled expenditure may be incurred by or on behalf of a third party during a Scottish devolved regulated period unless the third party falls within any paragraph of section 88(2) (third parties eligible to give notification).

(2) Subsection (1) does not apply to any expenses incurred by or on behalf of a third party during a Scottish devolved regulated period which do not in total exceed £700.

(3) Subsections (4) and (5) apply where expenses are incurred by or on behalf of a third party in contravention of subsection (1).

(4) If the third party is not an individual—

(a) any person who authorised the expenses to be incurred by or on behalf of the third party commits an offence if the person knew or ought reasonably to have known that the expenses would be incurred in contravention of subsection (1), and

(b) the third party also commits an offence.

(5) If the third party is an individual, the individual commits an offence if they knew or ought reasonably to have known that the expenses would be incurred in contravention of subsection (1).

(6) In this section a “Scottish devolved regulated period” means a period in relation to which any limit is imposed by paragraph 5 of Schedule 10 (general elections to the Scottish Parliament).”.

(3) In schedule 20 (penalties), at the appropriate place in the table insert—

“Section 89B(4) and (5) (incurring controlled expenditure in contravention of section 89B(1))	On summary conviction in Scotland: statutory maximum
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On indictment in Scotland: fine”.

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**17 Transitional provision: offences relating to third party expenditure**

- (1) The amendments made by section 16 have effect only in relation to a Scottish devolved regulated period beginning on or after the day on which section 16 comes fully into force.
- 5 (2) In subsection (1) “a Scottish devolved regulated period” means a period in relation to which any limit is imposed by paragraph 5 of schedule 10 of the Political Parties, Elections and Referendums Act 2000 (general elections to the Scottish Parliament).

**18 Code of practice on controls relating to third parties**

- (1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.
- 10 (2) After section 100A insert—

**“100AA Code of practice on controlled expenditure: Scottish Parliament elections**

- (1) The Commission must prepare a code of practice about the operation of this Part in relation to a Scottish devolved regulated period.
- (2) The code must in particular set out—
- 15 (a) guidance on the kinds of expenses which do, or do not, fall within Part 1 of Schedule 8A (qualifying expenses),
- (b) guidance on determining whether the condition in section 85(2)(b) (promoting or procuring electoral success) is met in relation to expenditure,
- 20 (c) guidance on determining whether anything provided to, or for the use of, a third party falls to be dealt with in accordance with—
- (i) section 86 (notional controlled expenditure), or
- (ii) section 95 and Schedule 11 (donations),
- (d) examples of when expenditure falls to be dealt with in accordance with section 94(6) (expenditure of a third party in pursuance of an arrangement with one or more other third parties).
- 25 (3) The Commission may from time to time revise the code.
- (4) In exercising their functions under this Part, the Commission must have regard to the code (but only in so far as it relates to a general election to the Scottish Parliament and does not relate to a reserved matter (within the meaning of the Scotland Act 1998)).
- 30 (5) It is a defence for a third party charged with an offence under any provision of this Part, where the offence relates to expenditure incurred or treated as incurred by a third party during a Scottish devolved regulated period, to show—
- 35 (a) that the code, in the form for the time being issued under section 100BA, was complied with by the third party in determining whether the expenditure is controlled expenditure for the purposes of this Part, and
- (b) that the offence would not have been committed on the basis of the controlled expenditure as determined in accordance with the code.
- 40 (6) In this section a “Scottish devolved regulated period” means a period in relation to which any limit is imposed by paragraph 5 of schedule 10 (general elections to the Scottish Parliament).

(7) Section 100BA sets out consultation and procedural requirements relating to the code or any revised code.”.

(3) After section 100B, insert—

**“100BA Code of Practice on controlled expenditure for Scottish Parliament elections: consultation and procedural requirements**

(1) The Commission must consult the following on a draft of a code under section 100AA(1)—

- (a) the Scottish Parliament,
- (b) such other persons as the Commission consider appropriate.

(2) After the Commission have carried out the consultation required by subsection (1), the Commission must—

- (a) make whatever modifications to the draft code the Commission consider necessary in light of responses to the consultation, and
- (b) submit the draft to the Scottish Ministers for approval by them.

(3) The Scottish Ministers may approve a draft code either without modifications or with such modifications as the Scottish Ministers may determine.

(4) Once the Scottish Ministers have approved a draft code, they must lay a copy of the draft before the Scottish Parliament, whether—

- (a) in its original form, or
- (b) in a form which incorporates any modifications determined under subsection (3).

(5) If the draft code incorporates modifications, the Scottish Ministers must at the same time lay before the Scottish Parliament a statement of their reasons for making them.

(6) If, within the 40-day period, the Scottish Parliament resolves not to approve the draft code, the Scottish Ministers must take no further steps in relation to it.

(7) Subsection (6) does not prevent a new draft code from being laid before the Scottish Parliament.

(8) If no resolution of the kind mentioned in subsection (6) is made within the 40-day period—

- (a) the Scottish Ministers must issue the code in the form of the draft laid before the Scottish Parliament,
- (b) the code comes into force on the date appointed by the Scottish Ministers by order, and
- (c) the Commission must arrange for the code to be published in such manner as the Commission consider appropriate.

(9) References in this section (other than in subsection (1)) to a code or draft code include a revised code or draft revised code.

(10) In this section “the 40-day period”, in relation to a draft code, means the period of 40 days beginning with the day on which the draft is laid before the Scottish

Parliament, no account being taken of any period during which the Scottish Parliament is dissolved or is in recess for more than four days.”.

(4) In section 156 (orders and regulations), in subsection (4C), after “order” insert “under section 100BA(8) or an order”.

(5) In schedule 8A (controlled expenditure: qualifying expenses), in paragraph 3(11)—

(a) after “paragraph 3,” insert “5,”

(b) after “parliamentary general elections” insert “, general elections to the Scottish Parliament”,

(c) for “and 100B” substitute “, 100AA, 100B and 100BA”.

*Expenditure in respect of local government elections*

**19 Notional expenditure: local government elections**

(1) The Representation of the People Act 1983 is modified as follows.

(2) In section 90C (property, goods, services etc. provided free of charge or at discount), in subsection (1A), the words “Scotland or” are repealed.

**PART 4**

RESCHEDULING OF ELECTIONS ETC.

*Scottish Parliament elections*

**20 Power of Presiding Officer to postpone ordinary election**

(1) The Scotland Act 1998 is modified as follows.

(2) In section 2 (ordinary general elections)—

(a) in subsection (5)—

(i) in the opening words, for “one month earlier, nor more than one month” substitute “4 weeks earlier, nor more than 8 weeks”,

(ii) in paragraph (c), for “within the period of seven days beginning immediately” substitute “as soon as reasonably practicable after”.

(b) subsection (5ZZA) is repealed,

(c) after subsection (5ZA), insert—

“(5D) Subsection (5E) applies if a proclamation is made in accordance with subsection (5).

(5E) Subject to subsection (2A), if the Presiding Officer proposes another day for the holding of the poll which is not more than 8 weeks later than the day on which the poll is required to be held under the proclamation, His Majesty may by further proclamation under the Scottish Seal—

(a) require the poll at the election to be held on the day proposed, and

(b) require the Parliament to meet as soon as reasonably practicable after the day of the poll.

- (5F) Before proposing a day for the holding of the poll under subsection (5) or (as the case may be) subsection (5E), the Presiding Officer must consult—
- (a) the Electoral Commission, and
  - (b) the convener of the Electoral Management Board for Scotland.”.

5      **21      Power of Presiding Officer to schedule extraordinary general elections**

- (1) The Scotland Act 1998 is modified as follows.
- (2) In section 3 (extraordinary general elections)—
  - (a) after subsection (1), insert—

10                   “(1A) But, despite subsection (1), the Presiding Officer may not propose a day for the holding of a poll if an event mentioned in paragraph (a) or (b) of that subsection occurs within the period of 8 weeks ending with the day on which the poll at the next ordinary general election would be held (disregarding section 2(5)).”.

- (b) in subsection (2B), for “one month” substitute “4 weeks”.

15      **22      Election of new Presiding Officer: extension of period**

- (1) The Scotland Act 1998 is modified as follows.
- (2) In section 19 (presiding officer), after paragraph (1A) insert—

20                   “(1AA) But where a general election was held on a day proposed by the Presiding Officer in accordance with a proclamation made by His Majesty under section 2(5) or (5E), subsection (1A) has effect as if for the words “within the period of 14 days beginning immediately” there were substituted “as soon as reasonably practicable”.”.

**23      Choice of new First Minister after changed election date**

- (1) The Scotland Act 1998 is modified as follows.
- (2) In section 46 (choice of the First Minister), after subsection (4), insert—

25                   “(5) Subsection (6) applies if the Parliament does not meet within the period of 7 days beginning immediately after the day of the poll at a general election that was held on a day proposed by the Presiding Officer in accordance with a proclamation made by His Majesty under section 2(5) or (5E).

30                   (6) The days in the period beginning with the day after the expiry of the 7 day period mentioned in subsection (5) and ending with the day immediately before the Parliament first meets are to be disregarded for the purpose of the calculation of the period allowed, under this section, for the Parliament to nominate one of its members for appointment as First Minister.”.

35      **24      Rescheduling of by-elections**

- (1) The Scotland Act 1998 is modified as follows.
- (2) In section 9 (constituency vacancies), after subsection (4) insert—

“(4A) Subsection (4B) applies where—

- (a) the Presiding Officer fixes a date under subsection (2), and
- (b) the date fixed does not fall within the period of 6 months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 2(5)).

(4B) The Presiding Officer may fix another date for the holding of the poll which is to be within the period of 3 months beginning with the date of the poll fixed by the Presiding Officer under subsection (2).

(4C) Subsection (4D) applies where—

- (a) the Presiding Officer fixes a date under subsection (2) or (4B), and
- (b) the date fixed falls within the period of 6 months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 2(5)).

(4D) If the Presiding Officer considers it necessary or appropriate for any reason to do so, the Presiding Officer may determine that an election to fill the vacancy is not to be held.

(4E) Before fixing a date under subsection (4B) or (as the case may be) determining that an election is not to be held under subsection (4D), the Presiding Officer must consult—

- (a) the Electoral Commission,
- (b) the convener of the Electoral Management Board for Scotland, and
- (c) the officer appointed by order in accordance with section 12(1) of the Scotland Act 1998 to act as the returning officer for the constituency in which the seat is vacant.”.

#### *Local government elections*

### **25 Power of convener of Electoral Management Board to postpone ordinary local election**

- (1) The Representation of the People Act 1983 is modified as follows.
- (2) In section 43 (day of ordinary elections in Scotland, and other timing provisions), in subsection (2)(b), for “section 45(1) below” insert “section 43A, 43B or 45(1)”.
- (3) After section 43 insert—

#### **“43A Power of convener of Electoral Management Board to postpone election**

- (1) Despite section 43(1), if the convener of the Electoral Management Board for Scotland considers it necessary or appropriate for any reason to do so, the convener may fix another day for the holding of the poll at the ordinary local election which is not more than 2 weeks later than the first Thursday in May in the year in which the election is to be held.
- (2) Before fixing a day under subsection (1), the convener must consult—
  - (a) the Electoral Commission, and
  - (b) the Scottish Ministers.

(3) Where a day for the holding of the poll at the ordinary local election is specified by order under section 43(1)(b), (1AB) or (1B), subsection (1) applies as if the reference to the first Thursday in May were a reference to the day specified in the order.

(4) In this section and section 43B, “ordinary local election” has the meaning given in section 43(1C).”.

## **26 Power of returning officers to postpone election for their area**

(1) The Representation of the People Act 1983 is modified as follows.

(2) After section 43A (inserted by section 25) insert—

### **“43B Power of returning officers to postpone election for their area**

(1) Despite section 43(1), if the returning officer for a local government area considers it necessary or appropriate for any reason to do so, the returning officer may fix another day for the holding of the poll at the ordinary local election for the election of councillors of that area which is not more than 2 weeks later than the first Thursday in May in the year in which the election is to be held.

(2) Before fixing a day under subsection (1), the returning officer must consult—

(a) the Electoral Commission, and

(b) the convener of the Electoral Management Board for Scotland.

(3) Where a day for the holding of the poll at the ordinary local election is—

(a) specified by order under section 43(1)(b), (1AB) or (1B), or

(b) fixed by the convener of the Electoral Management Board for Scotland under section 43A(1),

subsection (1) applies as if the reference to the first Thursday in May were a reference to the day specified in the order or (as the case may be) the day fixed by the convener.”.

## **27 Power of returning officer to postpone or cancel by-election**

(1) The Local Government (Scotland) Act 1973 is modified as follows.

(2) After section 37 insert—

### **“37A Power of returning officer to postpone election for casual vacancy**

(1) This section applies where—

(a) a casual vacancy occurs in the office of councillor,

(b) the returning officer fixes a date under section 37(1) on which the poll is to be held at the election to fill the casual vacancy, and

(c) the date fixed does not fall within the period of 6 months before the relevant date.

(2) If the returning officer considers it necessary or appropriate for any reason to do so, the returning officer may fix another date for the holding of the poll to

fill the casual vacancy which is to be within the period of 3 months beginning with the date of the poll fixed by the returning officer under section 37(1).

- (3) Subsection (4) applies where—
- (a) the returning officer fixes a date under subsection (2), and
  - (b) the date fixed does not fall within the period of 6 months before the relevant date.
- (4) If the returning officer considers it necessary or appropriate for any reason to do so, the returning officer may fix another date for the holding of the poll to fill the casual vacancy which is to be within the period of 3 months beginning with the date of the poll fixed by the returning officer under subsection (2).
- (5) Before fixing a date under subsection (2) or (as the case may be) subsection (4), the returning officer must consult—
- (a) the Electoral Commission, and
  - (b) the convener of the Electoral Management Board for Scotland.
- (6) For the purposes of this section, section 37B and section 37C the “relevant date” has the meaning given in section 37(2A).

**37B Further power of returning officer to postpone election for casual vacancy where large number of unfilled vacancies**

- (1) This section applies where—
- (a) a casual vacancy occurs in the office of councillor,
  - (b) on the occurrence of the casual vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies), the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members,
  - (c) the returning officer fixes a date under section 37 or 37A on which the poll is to be held at the election to fill the casual vacancy, and
  - (d) the date fixed falls within the period beginning 6 months before the relevant date and ending 3 months before the relevant date.
- (2) If the returning officer considers it necessary or appropriate for any reason to do so, the returning officer may fix another date for the holding of the poll to fill the casual vacancy which is to be within the period of 3 months beginning with the date of the poll fixed by the returning officer under section 37 or (as the case may be) 37A.
- (3) Before fixing a date under subsection (2) the returning officer must consult—
- (a) the Electoral Commission, and
  - (b) the convener of the Electoral Management Board for Scotland.

**37C Power of returning officer to cancel election for casual vacancy**

- (1) This section applies where—
- (a) a casual vacancy occurs in the office of councillor,

- (b) the returning officer fixes a date under section 37, 37A or 37B on which the poll is to be held at the election to fill the casual vacancy, and
- (c) the date fixed falls within the period of 6 months before the relevant date.

- 5 (2) If the returning officer considers it necessary or appropriate for any reason to do so, the returning officer may determine that an election to fill the casual vacancy is not to be held.
- (3) Before determining that an election is not to be held under subsection (2), the returning officer must consult—
- 10 (a) the Electoral Commission, and
- (b) the convener of the Electoral Management Board for Scotland.
- (4) Where an election is not held by virtue of the returning officer’s determination under subsection (2), the casual vacancy is to be filled at the next ordinary election.”.

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## PART 5

### ELECTION PILOTS AND DEMOCRATIC ENGAGEMENT

#### **28 Pilot schemes under the Scottish Local Government (Elections) Act 2002**

- (1) The Scottish Local Government (Elections) Act 2002 is modified as follows.
- (2) In section 5 (pilot schemes for local elections)—
- 20 (a) in subsection (1), for the words from the beginning to “shall” substitute “Where a proposal has been made that a scheme under this section should apply to particular local government elections held in a local authority’s area, the Scottish Ministers may”,
- (b) after that subsection insert—
- 25 “(1A) A scheme may be proposed by—
- (a) the Scottish Ministers after consulting the Electoral Management Board for Scotland and such other persons as they consider appropriate, or
  - (b) a person mentioned in subsection (1B) submitting a proposal to the Scottish Ministers.
- (1B) The persons are—
- 30 (a) the Electoral Management Board for Scotland,
- (b) a local authority if—
- (i) the proposed scheme relates to particular local government elections held in the authority’s area and
  - (ii) the authority has consulted the Electoral Management Board for
- 35 Scotland,

(c) an electoral registration officer if—

(i) the proposed scheme relates to particular local government elections held in any constituency in relation to which the officer is appointed, and

5 (ii) the officer has consulted the Electoral Management Board for Scotland.

(1C) Where a scheme is proposed by a person mentioned in subsection (1B) the proposal and the proposed scheme may be approved by the Scottish Ministers, either without modification or with such modifications as the Scottish Ministers consider appropriate.”,

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(c) in subsection (2) after “Acts” insert “or any other enactment”,

(d) in subsection (3) for “the local authority which proposed the scheme” substitute “the Scottish Ministers or, in the case where a person mentioned in subsection (1B) proposed the scheme, that person”,

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(e) in subsection (6)—

(i) in paragraph (a) for “(1)” substitute “(1A)(a)”, and

(ii) in paragraph (b) for “under that subsection, consult the local authority which” substitute “in accordance with subsection (1C) consult the Electoral Management Board for Scotland and, if it was not submitted by the Board, the person who”,

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(f) in subsection (9) after “Acts” insert “or any other enactment”,

(g) in subsection (12)—

(i) the word “and” immediately following paragraph (i) is repealed,

(ii) in paragraph (ii) for “which proposed the scheme” substitute “in whose area the elections that were subject to the scheme took place”,

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(iv) after that paragraph insert—

“(iii) the Electoral Management Board for Scotland, and

(iv) where the scheme was proposed by an electoral registration officer under subsection (1B), that officer,” and

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(h) in subsection (14), after the opening words insert the following definition—

““electoral registration officer” means an officer appointed under section 8(3) of the Representation of the People Act 1983.”.

(3) In section 6 (revision of procedures in the light of pilot schemes), after subsection (1) insert—

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“(1A) Before making an order under subsection (1), the Scottish Ministers must consult the Electoral Management Board for Scotland and such other persons as the Scottish Ministers consider appropriate.”.

## 29 Funding to increase democratic engagement

(1) The Scottish Ministers may provide financial assistance (including grants, loans, guarantees and indemnities) to a person who, to any extent, undertakes, or engages in,

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activities with the purpose of increasing democratic engagement (or proposes to undertake or engage in such activities).

- (2) In this section “increasing democratic engagement” includes activities which, in the opinion of the Scottish Ministers, are undertaken with a view to increasing or improving registration for, or participation in (whether by voters, candidates, campaigners or any other persons), any Scottish Parliament election or local government election (within the meaning of section 204(1) of the Representation of the People Act 1983).
- (3) The Scottish Ministers may—
- (a) provide financial assistance to such persons as they think fit, and
  - (b) attach conditions (including conditions as to repayment or the repayment of interest) in respect of any financial assistance provided.
- (4) The Scottish Ministers may, from time to time after financial assistance is provided, vary any conditions attached to it.

## PART 6

### INFORMATION TO BE INCLUDED WITH CERTAIN ELECTRONIC MATERIAL AT SCOTTISH ELECTIONS

#### *Introduction*

### **30 Application of this Part**

- (1) This Part applies in relation to electronic material published in connection with a relevant Scottish election which meets the conditions of this Part.
- (2) This Part applies in addition to the requirements in relation to electronic material which are set out in Part 6 of the Elections Act 2022 (information to be included with electronic material) or which are set out in any other enactment.

#### *Interpretation*

### **31 Key definitions**

- (1) The following definitions have effect for the purposes of this Part—
- “electronic material” means material in electronic form which consists of or includes—
- (a) text or moving or still images, or
  - (b) speech or music,
- “promoter”, in relation to electronic material, means the person causing the material to be published (but does not include any person who publishes the material as part of that person’s ordinary course of business),
- “published” means transmitted to the public at large, or any section of the public,
- “relevant third party” means any person who undertakes campaigning activities in relation to an election for a relevant Scottish elective office and who is not—
- (a) an individual,
  - (b) a recognised third party, or
  - (c) a registered party.

- (2) In subsection (1) “electronic material” does not include material to the extent that it is received by a person in the form of—
- (a) a telephone call made to the person at a telephone number allocated to them in accordance with a national or international numbering plan, or
  - (b) a short message service text message sent to such a telephone number.
- (3) The Scottish Ministers may by regulations amend this section so as to modify the definition of “electronic material”, “promoter” or “published”, or “relevant third party” that for the time being has effect for the purposes of this Part.

### 32 Further definitions relating to candidates, parties and elections

The following definitions have effect for the purposes of this Part—

“candidate” means a candidate at an election for a relevant Scottish elective office, including a person who is included in a list of candidates submitted in connection with such an election,

“future candidate” means a person who, in relation to an election for a relevant Scottish elective office, has been declared, whether by the person or by others, to be a candidate at the election, where—

- (a) the election is the next scheduled election for the office,
- (b) the notice of the election has not been published, and
- (c) that declaration has not been withdrawn,

“recognised third party” has the meaning given in section 85(5) of the Political Parties, Elections and Referendums Act 2000,

“registered party” has the same meaning as in the Political Parties, Elections and Referendums Act 2000 (see section 160(1) of that Act),

“relevant Scottish election” means—

- (a) an election to the Scottish Parliament, or
- (b) a local government election within the meaning of section 204 of the Representation of the People Act 1983,

“relevant Scottish elective office” means the office of—

- (a) member of the Scottish Parliament, or
- (b) member of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

*Electronic material to which the requirements apply*

### 33 Electronic material: conditions for application of section 35

- (1) Section 35 applies to electronic material which meets the following conditions.
- (2) The first condition is that the electronic material can reasonably be regarded as intended to achieve either purpose mentioned in section 34 (whether or not it can reasonably be regarded as intended to achieve any other purpose as well).
- (3) The second condition is that the promoter of the material, or the person on behalf of whom it is published, is a relevant third party.

- (4) The third condition is that neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.

### **34 Purpose of the electronic material**

- 5 (1) The first purpose is promoting or procuring electoral success at one or more relevant Scottish elections for—
- (a) a registered party,
  - (b) registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
  - 10 (c) candidates or future candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates or future candidates.
- (2) For the purposes of subsection (1)—
- (a) the reference to electoral success at a relevant Scottish election is a reference—
    - 15 (i) in relation to a registered party, to the return at the election of any candidate or future candidate who is standing, or is to stand, in the name of the party or is included, or is to be included, in a list of candidates submitted by the party in connection with the election, and
    - (ii) in relation to any candidate or future candidate, to their return at the election, and
  - (b) the reference to doing any of the things mentioned in that subsection includes doing so by prejudicing the electoral prospects at the election of other parties, candidates or future candidates.
- (3) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (1), it is immaterial that it does not expressly mention the name of any party, candidate or future candidate.
- 25 (4) The second purpose is promoting or procuring the election of a particular candidate, or a particular future candidate, at one or more relevant Scottish elections.
- (5) For the purposes of determining whether electronic material—
- 30 (a) can reasonably be regarded as intended to achieve the purpose mentioned in subsection (4), it is immaterial that it does not expressly mention the name of any candidate or future candidate, and
  - (b) is to be regarded as being published on behalf of a candidate or future candidate—
    - 35 (i) is not to be so regarded merely because it can be regarded as promoting or procuring the election of a candidate or future candidate at an election, but
    - (ii) may be regarded as being published on behalf of the party mentioned in subsection (6).
- (6) This subsection applies to electronic material which can reasonably be regarded as promoting or procuring the election of—
- 40 (a) two or more candidates or future candidates who are standing, or are to stand, in the name of a party, or

- (b) two or more candidates or future candidates who are included, or are to be included, in a list of candidates submitted by the party in connection with an election.

*Requirements when publishing electronic material*

5 **35 Requirement to include information**

- (1) Electronic material to which this section applies must not be published unless, in accordance with this section—
- (a) the information mentioned in subsection (2) is included as part of the electronic material, or
- 10 (b) if it is not reasonably practicable to comply with paragraph (a), the information mentioned in that subsection is displayed in text form in a location that is directly accessible from the electronic material.
- (2) That information is—
- (a) the name and address of the relevant third party who is the promoter of the
- 15 (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).
- (3) The Scottish Ministers may by regulations amend subsection (2) so as to—
- (a) add a description of information, or
- 20 (b) modify or remove a description of information that is for the time being specified in that subsection.
- (4) Information is included as part of electronic material for the purposes of subsection (1)(a) only if—
- (a) where the material consists of or includes text or moving or still images, it is
- 25 (b) where the material consists only of speech or music, it forms an audible part of that material.
- (5) Information that is included as part of electronic material—
- (a) must be legible or audible (as the case may be) regardless of the device used to
- 30 (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, the information would be retained as part of the material when republished.
- (6) Information that is directly accessible from electronic material—
- (a) must be legible regardless of the device used to access the information, and
- 35 (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, access to the information would be retained as part of the material when republished.

### **36 Exceptions to requirement in section 35**

- (1) Section 35 does not apply to the republication of electronic material if—
- (a) when it was previously published—
    - (i) section 35 applied to it, and
    - (ii) it was published in compliance with that section, and
  - (b) it is not materially altered when it is republished.
- (2) In subsection (1)(b) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—
- (a) the information within section 35(2), or
  - (b) the access to such information,
- as a result of which its previous publication complied with section 35.
- (3) Section 35 does not apply to the publication of electronic material on a website or mobile application whose primary purpose, or one of whose primary purposes, is the publication of journalism created for publication on the website or mobile application.
- (4) In subsection (3) “mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets.
- (5) The Scottish Ministers may by regulations amend this section so as to add, modify or remove cases to which section 35 does not apply.

### *Offences*

### **37 Offence of breaching section 35**

- (1) Where any electronic material to which section 35 applies is published in contravention of that section, the following persons commit an offence—
- (a) the relevant third party who is the promoter of the material, and
  - (b) any person on behalf of whom the material is being published (and who is not the promoter).
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove—
- (a) that the contravention arose from circumstances beyond the person’s control, and
  - (b) that the person took all reasonable steps, and exercised all due diligence, to ensure that the contravention would not arise.
- (4) It is a defence for a person charged with an offence under subsection (1) to prove that the person acted in accordance with guidance issued under section 41.
- (5) It is a defence for a person charged with an offence under subsection (1) in relation to the republication of electronic material to prove that—
- (a) the electronic material had previously been published,
  - (b) the person reasonably believed that when it was previously published—
    - (i) section 35 applied to it, and

- (ii) it was published in compliance with that section, and
- (c) it was not materially altered when it was republished.
- (6) In subsection (5)(c), the reference to electronic material not being materially altered includes a reference to the electronic material retaining—
- 5 (a) the information within section 35(3), or
- (b) the access to such information,
- as a result of which the person reasonably believed its previous publication complied with section 35.
- (7) The court by or before which a person is convicted of an offence under subsection (1) must notify the Electoral Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.
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### 38 Individual culpability where organisation commits an offence

- (1) This section applies where—
- (a) an offence under section 37(1) is committed by a relevant organisation, and
- 15 (b) the commission of the offence—
- (i) involves consent or connivance on the part of a responsible individual, or
- (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
- 20 “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
- “responsible individual” means, in relation to a relevant organisation—
- (a) an individual falling within the corresponding entry in the second column of the table in subsection (4), or
- 25 (b) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

Organisation	Individual
Company as mentioned in section 1 of the Companies Act 2006	Director, manager, secretary or other similar officer, or, where the company's affairs are managed by its members, member
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs

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*Enforcement and investigation*

**39 Enforcement by the Electoral Commission**

- 5 (1) Parts 1 to 4 and 6 of Schedule 19C of the Political Parties, Elections and Referendums Act 2000 (civil sanctions) and the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 (S.I. 2010/2860) apply (subject to the following provisions of this section) in relation to an offence to which this section applies as they apply in relation to a prescribed offence under that Act.
- 10 (2) This section applies to an offence under section 37(1) which relates to the publication of electronic material which can reasonably be regarded as intended to achieve a purpose within section 34(1).
- 15 (3) In the application of paragraph 23 of schedule 19C of the Political Parties, Elections and Referendums Act 2000 (use of statements made compulsorily) by virtue of this section, the reference in sub-paragraph (1) of that paragraph to schedule 19B of that Act is to be read as including a reference to schedule 12 of the Elections Act 2022 (as applied by section 40(1)).
- 20 (4) In the application of paragraph 13(1)(a) of Schedule 1 of the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 (S.I. 2010/2860) by virtue of this section, the reference to the Political Parties, Elections and Referendums Act 2000 and that Order is to be read as a reference to that Act and that Order as they are applied by this section.

**40 Supply of information**

- 25 (1) Schedule 12 of the Elections Act 2022 (supply of information etc.) applies (subject to the following provisions of this section) in relation to an offence under section 37 as it applies in relation to an offence under Part 6 of that Act.
- (2) In the application of Schedule 12 of the Elections Act 2022 by virtue of this section, the references in paragraphs 1(1)(b)(i), 1(2)(b) and 3(2)(b) to section 41 of that Act are to be read as including references to section 35 of this Act.
- 30 (3) Paragraphs 3 to 13 and 15 of schedule 19B of the Political Parties, Elections and Referendums Act 2000 (investigatory powers of the Electoral Commission) apply in relation to an offence mentioned in section 39(2) as they apply in relation to an offence under that Act.

*Guidance and Electoral Commission Report*

**41 Guidance**

- 35 (1) The Electoral Commission must prepare guidance about—
- (a) the operation of this Part, and
- (b) the exercise of functions by the Electoral Commission or a constable in relation to a breach or suspected breach of this Part.
- (2) The Electoral Commission or a constable must have regard to guidance issued under this section in exercising those functions.
- 40 (3) Once the Electoral Commission has prepared draft guidance under this section, it must submit it to the Scottish Ministers for approval by the Scottish Ministers.

- (4) The Scottish Ministers may approve draft guidance either without modifications or with such modifications as the Scottish Ministers may determine.
- (5) Once the Scottish Ministers have approved draft guidance, they must lay a copy of the draft before the Scottish Parliament, whether—
- 5           (a) in its original form, or
- (b) in a form which incorporates any modifications determined under subsection (4).
- (6) If the draft guidance incorporates modifications, the Scottish Ministers must at the same time lay before the Scottish Parliament a statement of their reasons for making them.
- (7) If, within the 40-day period, the Scottish Parliament resolves not to approve the draft
- 10           guidance, the Scottish Ministers must take no further steps in relation to it.
- (8) Subsection (7) does not prevent new draft guidance from being laid before the Scottish Parliament.
- (9) If no resolution of the kind mentioned in subsection (7) is made within the 40-day period—
- 15           (a) the Scottish Ministers must issue the guidance in the form of the draft laid before the Scottish Parliament,
- (b) the guidance comes into force on the date appointed by the Scottish Ministers by regulations, and
- (c) the Electoral Commission must arrange for the guidance to be published in such
- 20           manner as the Electoral Commission consider appropriate.
- (10) References in this section (other than in subsection (1)) to guidance or draft guidance include revised guidance or draft revised guidance.
- (11) In this section “the 40-day period”, in relation to draft guidance, means the period of
- 25           40 days beginning with the day on which the draft is laid before the Scottish Parliament, no account being taken of any period during which the Scottish Parliament is dissolved or is in recess for more than four days.

#### **42 Electoral Commission’s annual report**

- (1) Each report by the Electoral Commission under paragraph 20A of schedule 1 of the Political Parties, Elections and Referendums Act 2000 must contain information about—
- 30           (a) the convictions notified to the Electoral Commission under section 37(7) during the year in question, and
- (b) the use made by the Electoral Commission of its powers under section 40(1) during that year.
- (2) The report must, in particular, specify—
- 35           (a) the cases in which a notice was given under paragraph 1 of Schedule 12 of the Elections Act 2022 (as applied by section 40),
- (b) the cases in which an order under paragraph 2 or 3 of that schedule was applied for or made.

- (3) This section does not require the Electoral Commission to include in a report any information that, in its opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
- (b) might adversely affect any current investigation or proceedings.

*Final provisions*

**43 Scottish Ministers regulation making powers**

- (1) The Scottish Ministers may make regulations under this Part only—
- (a) if the regulations give effect to a recommendation of the Electoral Commission, or
- (b) after consultation with the Electoral Commission.
- (2) Regulations under this Part may make consequential, incidental, supplementary, transitional, transitory or saving provision.
- (3) Regulations under this Part are subject to the affirmative procedure.
- (4) But this section does not apply to regulations under section 41(9)(b).

**44 Consequential revocations**

- (1) The Scottish Elections (Details to appear on Election Material) Regulations 2020 (S.S.I 2020/297) are revoked.
- (2) The Scottish Elections (Details to appear on Election Publications) Regulations 2020 (S.S.I 2020/298) are revoked.

**PART 7**

BOUNDARIES

**45 Boundaries Scotland: changing date of next review of local government wards and number of councillors**

- (1) The Local Government (Scotland) Act 1973 is modified as follows.
- (2) In section 16 (wards and councillors: substantive changes in electoral arrangements), in subsection (2A)(a), for “31 December 2028” substitute “30 April 2031”.

**PART 8**

ELECTORAL COMMISSION

**46 Five-year plan: devolved Scottish elections and referendums**

- (1) The Political Parties, Elections and Referendums Act 2000 is modified as follows.
- (2) In schedule 1 (the Electoral Commission)—
- (a) in paragraph 14, after sub-paragraph (8), insert—

“(9) An estimate prepared under this paragraph must not include income or expenditure that is attributable to the exercise of the Commission's functions in relation to Scottish devolved functions (as to which, see paragraph 14A)”,

(b) in paragraph 14A, in sub-paragraph (4)—

5 (i) for “Before the start of” substitute “For”,

(ii) for “by such date as the SPCB determines” substitute “at least 6 months before the start of the financial year to which the estimate relates (or such later date as the Commission and the SPCB may agree)”,

(c) in paragraph 15, after sub-paragraph (5), insert—

10 “(7) A plan prepared under this paragraph must not include aims, objectives or estimated requirements for the exercise of the Commission's functions in relation to Scottish devolved functions (as to which, see paragraph 15A).”,

(d) for paragraph 15A, substitute—

15 “15A(1) When the Commission send to the Scottish Parliamentary Corporate Body (in this paragraph, the “SPCB”) an estimate under paragraph 14A(4) in respect of the first financial year to begin after the day on which the Scottish Parliament meets for the first time following a general election for membership of the Scottish Parliament, the Commission must at the same time submit to the SPCB a plan prepared by the Commission setting out the Commission’s—

20 (a) aims and objectives for the exercise of the Commission’s devolved Scottish functions during the period of 5 years beginning with the start of the financial year to which the estimate relates, and

(b) estimated requirements for resources for the exercise of those functions during that 5 year period.

25 (2) The SPCB may require the Commission to submit a plan under sub-paragraph (1) when the Commission send such an estimate as is mentioned in paragraph 14A in respect of a financial year other than one mentioned in that sub-paragraph.

(3) The SPCB—

30 (a) must examine each plan submitted to it,

(b) must decide whether it is satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of their devolved Scottish functions, and

35 (c) if it is not so satisfied, may recommend such modifications to the plan as it considers appropriate for the purpose of achieving such consistency.

(4) Before deciding whether it is so satisfied or making any such recommendations, the SPCB may provide a draft of the plan and invite, and (if any are given) consider, comments on it from—

40 (a) a committee of the Scottish Parliament,

(b) such other persons as the SPCB consider appropriate.

(5) The SPCB must, as soon as reasonably practicable after concluding its examination and making its recommendations (if any) under sub-paragraph

(3) in relation to the plan, report to the Commission on its findings and recommendations.

(6) After the SPCB has reported to the Commission under sub-paragraph (5), the Commission must—

- (a) make whatever modifications to the draft code the Commission consider necessary in light of the SPCB’s findings and recommendations,
- (b) lay the plan before the Scottish Parliament, and
- (c) if the Commission do not follow any of the SPCB’s recommendations for modifications to the plan under this paragraph, lay before the Scottish Parliament a document describing its reasons for so doing.

(7) The Commission may, at any time during the period of 5 years to which a plan relates, review the plan for that period and submit a revised plan to the SPCB setting out the matters mentioned in sub-sub-paragraphs (a) and (b) of sub-paragraph (1).

(8) Sub-paragraphs (3) to (6) apply to a revised plan submitted under sub-paragraph (7) as they apply to a plan submitted under sub-paragraph (1).

(9) In this paragraph, “Scottish devolved functions”, in relation to the Commission, means the functions of the Commission—

- (a) under Part 1 in relation to—
  - (i) Scottish Parliamentary general elections,
  - (ii) elections held under section 9 of the Scotland Act 1998 (constituency vacancies), and
  - (iii) local government elections in Scotland, and
- (b) under the Referendums (Scotland) Act 2020 in relation to any referendum held throughout Scotland in pursuance of provision made by or under an Act of the Scottish Parliament,

in so far as those functions do not relate to reserved matters (within the meaning of the Scotland Act 1998).”,

(e) the cross-heading immediately preceding paragraph 15A of schedule 1 becomes “Five-year plan: devolved Scottish elections and referendums”.

## PART 9

### ELECTORAL MANAGEMENT BOARD FOR SCOTLAND

#### **47 Constitution of the Electoral Management Board for Scotland**

(1) The Local Electoral Administration (Scotland) Act 2011 is modified as follows.

(2) In section 1 (Electoral Management Board for Scotland), for subsection (1) substitute—

“(1) The committee established and known as the Electoral Management Board for Scotland continues to exist and becomes a body corporate to be known under the same name.”.

(3) After section 1, insert—

**“1A Powers of the Board and validity of actions**

- (1) The Board may do anything which appears to it—
- (a) to be necessary or expedient for the purposes of, or in connection with, the performance of its functions, or
  - (b) to be otherwise conducive to the performance of its functions.
- (2) The validity of anything done by the Board is not affected by—
- (a) a vacancy in membership,
  - (b) a defect in the appointment of a member,
  - (c) the removal or disqualification of a person as a member after appointment.”.

- (4) In section 2 (membership), after subsection (4) insert—

- “(5) The convener may—
- (a) appoint a deputy convener to act for a period of 4 years,
  - (b) reappoint a deputy convener for one further 4 year period.
- (6) A deputy convener must be a member of the Board.
- (7) A deputy convener may carry out any of the convener’s functions under this Act where—
- (a) the office of convener is vacant, or
  - (b) the person holding the office is for any reason unable to perform the convener’s functions.
- (8) Otherwise, a deputy convener may perform such of the convener’s functions under this Act (and to such extent) as the convener may determine.”.

- (5) After section 8, insert—

**“8A Accounts**

- (1) The Board must—
- (a) keep proper accounts and accounting records, and
  - (b) prepare in respect of each financial year a statement of accounts.
- (2) After securing the Board’s approval of the statement of accounts, the convener must send a copy of the statement to the Scottish Ministers.”.

**PART 10**

GENERAL PROVISION

**48 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

- (2) Regulations under this section may—
- (a) make different provision for different purposes,
  - (b) modify any enactment (including this Act).
- (3) Regulations under this section—
- 5       (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
- (b) otherwise are subject to the negative procedure.

#### **49 Commencement**

- (1) This section and sections 48 and 50 come into force on the day after Royal Assent.
- 10       (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

#### **50 Short title**

15       The short title of this Act is the Scottish Elections (Representation and Reform) Act 2024.

SCHEDULE  
*(introduced by section 3)*

OFFENCES FOR THE PURPOSES OF PART 2

**PART 1**

5

SOLEMN PROCEDURE

1 An offence tried on indictment.

**PART 2**

SUMMARY PROCEDURE

**CHAPTER 1**

10

COMMON LAW OFFENCES

2 Kidnapping.

3 Abduction.

4 Assault to the danger of life.

5 Assault to severe injury.

15

6 Assault with intent to rape or ravish.

7 Assault other than a kind listed in paragraphs 4 to 6.

8 Breach of the peace.

9 Culpable homicide.

10 Culpable and reckless conduct.

20

11 Culpable and reckless endangering of the public.

12 Culpable and reckless fire-raising.

13 Drugging.

14 Extortion.

15 Malicious mischief.

25

16 Mobbing and rioting.

17 Uttering threats.

18 Wilful fire-raising.

**CHAPTER 2**

## STATUTORY OFFENCES

*Explosive Substances Act 1883*

- 5 19 An offence under either of the following provisions of the Explosive Substances Act 1883—
- (a) section 2 (causing explosion likely to endanger life or property),
  - (b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property).

*Criminal Law Act 1977*

- 10 20 An offence under section 51 (bomb hoaxes) of the Criminal Law Act 1977.

*Taking of Hostages Act 1982*

- 21 An offence under section 1 of the Taking of Hostages Act 1982 (hostage taking).

*Rent (Scotland) Act 1984*

- 15 22 An offence under section 22 of the Rent (Scotland) Act 1984 (unlawful eviction and harassment of occupier).

*Public Order Act 1986*

- 23 An offence under any of the following provisions of the Public Order Act 1986—
- (a) section 18 (racial hatred: use of words or behaviour or display of written material),
  - (b) section 19 (racial hatred: publishing or distributing written material),

20

  - (c) section 20 (racial hatred: public performance of play),
  - (d) section 21 (racial hatred: distributing, showing or playing a recording),
  - (e) section 22 (racial hatred: broadcasting or including programme in programme service).

*Criminal Justice Act 1988*

- 25 24 An offence under section 134 (torture) of the Criminal Justice Act 1988.

*Trade Union and Labour Relations (Consolidation) Act 1992*

- 25 An offence under section 241 of the Trade Union and Labour Relations (Consolidation) Act 1992 (intimidation or annoyance by violence or otherwise).

*Criminal Law (Consolidation) (Scotland) Act 1995*

26 An offence under either of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—

- (a) section 50A (racially aggravated harassment),
- (b) section 52 (vandalism).

*Communications Act 2003*

27 An offence under section 127 of the Communications Act 2003 (improper use of public electronic communications network).

*Sexual Offences (Scotland) Act 2009*

28 An offence under any of the following provisions of the Sexual Offences (Scotland) Act 2009—

- (a) section 2 (sexual assault by penetration),
- (b) section 3 (sexual assault),
- (c) section 8 (sexual exposure).

*Criminal Justice and Licensing (Scotland) Act 2010*

29 An offence under either of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—

- (a) section 38 (threatening or abusive behaviour),
- (b) section 39 (stalking).

*Hate Crime and Public Order (Scotland) Act 2021*

30 An offence under either of the following provisions of the Hate Crime and Public Order (Scotland) Act 2021—

- (a) section 3 (racially aggravated harassment),
- (b) section 4 (offences of stirring up hatred).

**PART 3**

**OTHER**

*Inchoate offences*

31 An offence committed by aiding, abetting, counselling, procuring or inciting the commission of any offence listed in paragraphs 1 to 30 of this schedule.

32 An offence committed by attempting or conspiring to commit any offence listed in paragraphs 1 to 30 of this schedule.

*Superseded offences*

- 33 An offence superseded (whether directly or indirectly) by any offence listed in paragraphs 1 to 30 of this schedule (and any qualification in relation to a listed offence applies to the superseded offence as it applies to the listed offence).



# **Scottish Elections (Representation and Reform) Bill**

[AS INTRODUCED]

An Act of the Scottish Parliament to make further provision about eligibility of elected representatives in the Scottish Parliament and in local government and to reform certain aspects of the law relating to Scottish parliamentary and local government elections

Introduced by: Shona Robison  
Supported by: George Adam  
On: 23 January 2024  
Bill type: Government Bill

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