

Scottish Independence Referendum Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Section 1	Schedule 1
Sections 2 and 3	Schedule 2
Sections 4 to 9	Schedule 3
Section 10	Schedule 4
Section 11	Schedules 5 and 6
Sections 12 to 28	Schedule 7
Sections 29 to 32	Schedule 8
Sections 33 and 34	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Schedule 1

Nicola Sturgeon

4 In schedule 1, page 15, line 5, at end insert—

<[Official mark]>

Nicola Sturgeon

5 In schedule 1, page 15, leave out line 12

After section 2

Nicola Sturgeon

6 After section 2, insert—

<Declarations of local connection and service declarations: further provision

- (1) The Scottish Independence Referendum (Franchise) Act 2013 is amended as follows.
- (2) In section 7 (declaration of local connection: additional ground for young people), after subsection (5) insert—
 - “(6) For the purposes of section 5(1)(b), a declaration of local connection made by virtue of this section is to be treated as having effect also for the purpose of meeting any residence requirement for registration in a register of local government electors.”.
- (3) After section 7 insert—

“7A Children etc. of people with a service qualification

- (1) This section applies for the purposes of sections 14 to 17 of the 1983 Act (service declarations), as applied by this Act in relation to registration in the register of young voters.
 - (2) An eligible child has a service qualification for those purposes.
 - (3) Accordingly, any reference in an applied enactment to a person having a service qualification is to be read as including an eligible child.
 - (4) An “eligible child” is a person—
 - (a) who will be aged 16 or 17 on the date on which the poll at an independence referendum is to be held,
 - (b) a parent or guardian of whom has a service qualification under any of paragraphs (a) to (e) of section 14(1) of the 1983 Act, and
 - (c) who is residing at a particular place in order to be with that parent or guardian.
 - (5) Section 16 of the 1983 Act (contents of service declaration), as applied by this Act, has effect for the purposes of a service declaration by an eligible child subject to the following modifications—
 - (a) the references in paragraphs (b) and (d) to the United Kingdom are to be read as references to Scotland,
 - (b) the words from “and (except where” to the end of the section are omitted.
 - (6) Regulation 15 of the Representation of the People (Scotland) Regulations 2001 (contents of service declaration), as applied by this Act, has effect for the purposes of a service declaration by an eligible child as if the references in paragraphs (2), (3) and (4) to the spouse or civil partner of a person included references to—
 - (a) a child of the person,
 - (b) a child for whom the person acts as guardian,
 - (c) a child of the spouse or civil partner of the person,
 - (d) a child for whom the spouse or civil partner of the person acts as guardian.
 - (7) For the purposes of section 5(1)(b), a service declaration made by virtue of this section is to be treated as having effect also for the purpose of meeting any residence requirement for registration in a register of local government electors.”.
- (4) In Part 2 of schedule 1 (application of provisions of the 1983 Act), for the entry relating to section 16 of the 1983 Act, substitute—

“Section 16 (contents of service declaration)

For paragraph (f) substitute—

“(f) the declarant’s date of birth.””.>

Schedule 2

Nicola Sturgeon

7 In schedule 2, page 22, line 16, at end insert—

<() An application to vote by proxy made as described in sub-paragraph (8)(a) must also meet any applicable additional requirements set out in paragraph 7A.>

Nicola Sturgeon

8 In schedule 2, page 23, line 9, after <because> insert—

<(i)>

Nicola Sturgeon

9 In schedule 2, page 23, line 9, after <date> insert—

<(ii) the applicant will be, or is likely to be, unavoidably absent from the applicant's qualifying address on the date of the referendum and the applicant only became aware of that fact after the cut-off date, or

(iii) of reasons relating to the applicant's occupation, service or employment, of which the applicant only became aware after the cut-off date,>

Nicola Sturgeon

10 In schedule 2, page 23, line 19, at end insert—

<Additional requirements as to certain applications to vote by proxy

7A(1) Sub-paragraphs (2) to (5) apply in relation to an application to vote by proxy made as described in paragraph 7(8)(a)(i) or (ii).

(2) The application must contain a statement of the date on which the applicant became aware of the reasons given in the statement required by paragraph 7(4)(c).

(3) The application must be signed by a person who—

(a) is aged 18 or over,

(b) knows the applicant, and

(c) is not related to the applicant.

(4) The person who signs the application in accordance with sub-paragraph (3) must certify in the application that the following information is true to the best of the person's knowledge and belief—

(a) the information given in the statement required by sub-paragraph (2), and

(b) the reasons given in the statement required by paragraph 7(4)(c).

(5) That person must also state in the application—

(a) the person's name and address,

(b) that the person—

(i) is aged 18 or over,

(ii) knows the applicant, and

- (iii) is not related to the applicant.
- (6) Sub-paragraphs (8) to (11) apply in relation to an application to vote by proxy made as described in paragraph 7(8)(a)(iii).
- (7) But sub-paragraphs (9) to (11) do not apply if the applicant is or will be registered as a service voter.
- (8) The application must contain a statement of—
 - (a) where the applicant is an employee, the name of the applicant’s employer,
 - (b) where the applicant is not an employee, details of the applicant’s occupation or service,
 - (c) the date on which the applicant became aware of the reasons given in the statement required by paragraph 7(4)(c).
- (9) The application must be signed—
 - (a) where the applicant is an employee, by—
 - (i) the applicant’s employer, or
 - (ii) another employee to whom this function is delegated by the employer,
 - (b) where the applicant is not an employee, by a person who—
 - (i) is aged 18 or over,
 - (ii) knows the applicant, and
 - (iii) is not related to the applicant.
- (10) The person who signs the application in accordance with sub-paragraph (9) must certify in the application that the following information is true to the best of the person’s knowledge and belief—
 - (a) the information given in the statement required by sub-paragraph (8), and
 - (b) the reasons given in the statement required by paragraph 7(4)(c).
- (11) That person must also state in the application—
 - (a) the person’s name and address,
 - (b) if the applicant is an employee, either (as the case may be)—
 - (i) that the person is the applicant’s employer, or
 - (ii) the position that the person holds in the employment of the applicant’s employer,
 - (c) if the applicant is not an employee, that the person—
 - (i) is aged 18 or over,
 - (ii) knows the applicant, and
 - (iii) is not related to the applicant.
- (12) For the purposes of this paragraph—
 - (a) a person (“A”) is related to another person (“B”) if A is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of B,

- (b) a person is registered as a service voter if the person has made a service declaration under section 15 of the 1983 Act and is registered in the register of electors in pursuance of it.>

Nicola Sturgeon

- 11 In schedule 2, page 25, line 36, at end insert—

<() a day appointed for public thanksgiving or mourning.>

Nicola Sturgeon

- 12 In schedule 2, page 27, line 20, at end insert—

<() a day appointed for public thanksgiving or mourning.>

Nicola Sturgeon

- 13 In schedule 2, page 28, line 24, leave out paragraph 21 and insert—

<The counting officer is to issue postal ballot papers (and postal voting statements) as soon as it is practicable to do so.>

Nicola Sturgeon

- 14 In schedule 2, page 32, line 11, at end insert—

<*Superseded postal ballot papers*

- (1) This paragraph applies where—
 - (a) an application under paragraph 3(2) or (6) is granted, and
 - (b) the documents mentioned in sub-paragraph (2) have previously been issued to the applicant.
- (2) The documents are—
 - (a) a postal ballot paper (a “superseded postal ballot paper”),
 - (b) a postal voting statement,
 - (c) the envelopes supplied for their return.
- (3) The superseded postal ballot paper is void and of no effect.
- (4) The applicant must return the documents.
- (5) Any postal ballot paper or postal voting statement returned in accordance with sub-paragraph (4) must be immediately cancelled.
- (6) The counting officer must, as soon as practicable after cancelling those documents, make up those documents in a separate packet and must seal the packet; and if on any subsequent occasion documents are cancelled as mentioned in sub-paragraph (5), the sealed packet must be opened and the additional cancelled documents included in it and the packet must again be made up and sealed.
- (7) The counting officer must enter in a list kept for the purpose (“the list of superseded postal ballot papers”)—

- (a) the name and number of the applicant as stated in the Polling List (or, in the case of an applicant who has an anonymous entry, the applicant's voter number alone), and
- (b) the number of the superseded postal ballot paper.>

Nicola Sturgeon

- 15 In schedule 2, page 32, line 13, leave out <referendum agent> and insert <of the referendum agents appointed for the area>

Nicola Sturgeon

- 16 In schedule 2, page 39, line 33, leave out <and lost> and insert <, lost and superseded>

Nicola Sturgeon

- 17 In schedule 2, page 45, leave out lines 23 and 24 and insert—
<() This paragraph applies to any person holding a copy of a document supplied under paragraph 46(1) or (2), 48(1) or 49(1).>

Section 4

Annabel Goldie

- 18 In section 4, page 2, line 26, after <if> insert—
<(a) the Chief Counting Officer is convicted of any criminal offence, or
(b)>

Section 7

Nicola Sturgeon

- 19 In section 7, page 4, line 19, after <part,> insert <on the part of a deputy of the officer,>

Nicola Sturgeon

- 20 In section 7, page 4, line 29, after <officer> insert <or a deputy of a counting officer>

Schedule 3

Annabel Goldie

- 21 In schedule 3, page 47, line 39, at end insert—
<() a day appointed for public thanksgiving or mourning.>

Nicola Sturgeon

- 22 In schedule 3, page 48, line 33, leave out <on the back of the ballot paper> and insert—
<() an official mark on the front of the ballot paper, and>

Nicola Sturgeon

- 23 In schedule 3, page 48, line 34, leave out from <, and> to end of line 1 on page 49 and insert <on the back of the ballot paper.>

Nicola Sturgeon

- 24 In schedule 3, page 49, line 35, leave out <Subject to paragraph 21(1) of schedule 2>

Nicola Sturgeon

- 25 In schedule 3, page 49, line 35, leave out <, as soon as reasonably practicable,>

Annabel Goldie

- 26 In schedule 3, page 53, line 2, at end insert—
<() a day appointed for public thanksgiving or mourning.>

Annabel Goldie

- 27 In schedule 3, page 55, line 10, after <removed> insert <immediately>

Nicola Sturgeon

- 28 In schedule 3, page 62, line 36, leave out <publish notice> and insert <give notice in writing to the Chief Counting Officer, each of the referendum agents appointed for the area and any counting agents appointed to attend at the count>

Annabel Goldie

- 29 In schedule 3, page 65, line 32, leave out <final> and insert <subject to any judicial review in accordance with section 31>

Schedule 4

Lewis Macdonald

- 112 In schedule 4, page 71, line 17, at end insert—
<and is not closely connected to a permitted participant, including a permitted participant that is a designated organisation.>

Lewis Macdonald

- 113 In schedule 4, page 71, line 38, at end insert—
<and is not closely connected to a permitted participant, including a permitted participant that is a designated organisation.>

Lewis Macdonald

- 114 In schedule 4, page 71, line 38, at end insert—
<() For the purposes of this schedule, “closely connected to a permitted participant”, means—

- (a) in respect of an individual, that the individual is—
 - (i) a member of the board of directors or other governing body, or a member of the advisory board, of a permitted participant, or
 - (ii) an employee or worker of a permitted participant who has managerial responsibilities or other powers of decision making on its behalf, or
 - (iii) a person engaged in a contract for services by a permitted participant, who has managerial responsibilities or other powers of decision making on its behalf,
- (b) in respect of a body, that the body shares with a permitted participant—
 - (i) more than 50 per cent of its total funding,
 - (ii) more than 50 per cent of its governing body, or
 - (iii) its primary decision maker.>

Nicola Sturgeon

30 In schedule 4, page 72, line 31, at end insert—

<Further provision about responsible persons

- (1) A person who is the responsible person in relation to a permitted participant may not make a declaration under paragraph 2 as a qualifying individual or on behalf of a qualifying body.
- (2) An individual who is a permitted participant ceases to be a permitted participant if the individual is the treasurer of a registered party (other than a minor party) that becomes a permitted participant.
- (3) A declaration made or notification given by a minor party or a qualifying body does not comply with the requirement in paragraph 3(1)(b) or (3)(a)(ii) if the person whose name is stated—
 - (a) is already the responsible person in relation to a permitted participant,
 - (b) is an individual who makes a declaration under paragraph 2 at the same time, or
 - (c) is the person whose name is stated, in purported compliance with paragraph 3(1)(b) or (3)(a)(ii), in a declaration made or notification given at the same time by another minor party or qualifying body.
- (4) Where a registered party (other than a minor party) makes a declaration under paragraph 2 and the treasurer of the party (“T”) is already the responsible person in relation to a permitted participant (“P”)—
 - (a) T ceases to be the responsible person in relation to P at the end of the period of 14 days beginning with the day on which (by reason of the declaration) T becomes the responsible person for the party,
 - (b) P must, before the end of that period, give a notice of alteration under paragraph 3(4) stating the name of the person who is to replace T as the responsible person in relation to P.
- (5) In sub-paragraphs (3) and (4), “the person”, in relation to a qualifying body, is to be read as “the person or officer”.>

Nicola Sturgeon

- 31 In schedule 4, page 73, line 27, leave out from <period> to <referendum> in line 28 and insert <application>

Nicola Sturgeon

- 32 In schedule 4, page 73, line 31, leave out from first <period> to end of line 32 and insert <decision period.>

Nicola Sturgeon

- 33 In schedule 4, page 73, line 40, at end insert—

<() In this paragraph—

“the application period” is the period of 28 days ending with the day before the first day of the decision period, and

“the decision period” is the period of 16 days ending with the 28th day before the first day of the referendum period.>

Nicola Sturgeon

- 34 In schedule 4, page 80, line 14, leave out <for any special reason>

Drew Smith

- 115 In schedule 4, page 81, line 22, leave out <£10,000> and insert <£7,500>

Patrick Harvie

- 1 In schedule 4, page 84, line 29, leave out <17 and>

Patrick Harvie

- 2 In schedule 4, page 84, line 31, leave out <whether or not> and insert <where>

Drew Smith

- 116 In schedule 4, page 85, line 27, leave out <£10,000> and insert <£7,500>

Nicola Sturgeon

- 35 In schedule 4, page 86, leave out lines 11 to 17

Nicola Sturgeon

- 36 In schedule 4, page 86, line 18, leave out <by the Commission>

Nicola Sturgeon

- 37 In schedule 4, page 86, line 33, leave out <by the Electoral Commission>

Nicola Sturgeon

- 38 In schedule 4, page 87, line 15, leave out from <accompanied> to end of line 16

Nicola Sturgeon

- 39 In schedule 4, page 88, line 5, leave out <received> and insert <accepted>

Liam McArthur (on behalf of the SPCB)

- 40 In schedule 4, page 89, line 16, leave out from beginning to <SPCB,>

Patrick Harvie

- 3 In schedule 4, page 89, line 21, at end insert—

<() material published—

- (i) in the Business Bulletin or Official Report of the Scottish Parliament, in accordance with the Parliament’s Standing Orders, or
- (ii) on the Scottish Parliament official website,>

Liam McArthur (on behalf of the SPCB)

- 41 In schedule 4, page 91, line 7, at end insert—

<() Sub-paragraph (1) does not apply to any material published by or on behalf of the SPCB.>

Nicola Sturgeon

- 42 In schedule 4, page 100, line 24, leave out from <of> to end of line 25 and insert <ending with the 28th day of the referendum period (including the time before the referendum period),>

Nicola Sturgeon

- 43 In schedule 4, page 100, line 40, at end insert—

<() Where an individual or body becomes a permitted participant during a period mentioned in sub-paragraph (1)(b) or (c) (“the period in question”)—

- (a) a separate report under this paragraph need not be prepared in respect of any preceding period, but
- (b) for the purposes of sub-paragraphs (2) and (3), the report for the period in question must also cover the time before the start of the period, and references in those sub-paragraphs to the period are to be read accordingly.

() Sub-paragraphs (2) and (3) apply to a relevant donation received by a permitted participant before the start of the referendum period only if the donation was for the purpose of meeting referendum expenses to be incurred by the permitted participant during the referendum period.

() References in this paragraph and in paragraph 41A to a relevant donation received by a permitted participant include any donation received at a time before the individual or body concerned became a permitted participant, if the donation would have been a relevant donation had the individual or body been a permitted participant at that time.>

Nicola Sturgeon

117 In schedule 4, page 101, line 27, at end insert—

<Declaration of responsible person as to donation reports under paragraph 41

41A(1) Each report prepared under paragraph 41 in respect of relevant donations received by a permitted participant must be accompanied by a declaration which complies with sub-paragraph (2) and is signed by the responsible person.

(2) The declaration must state—

(a) that the responsible person has examined the report, and

(b) that to the best of the responsible person's knowledge and belief, it is a complete and correct report as required by law.

(3) A person commits an offence if—

(a) the person knowingly or recklessly makes a false declaration under this paragraph, or

(b) sub-paragraph (1) is contravened at a time when the person is the responsible person in the case of the permitted participant to which the report relates.

(4) A person who commits an offence under sub-paragraph (3) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),

(b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).

Public inspection of donation reports under paragraph 41

41B(1) Where the Electoral Commission receive a report under paragraph 41 they must—

(a) as soon as reasonably practicable after receiving the report, make a copy of the report and of any document accompanying it available for public inspection, and

(b) keep any such copy available for public inspection for the period for which the report or other document is held by them.

(2) The Commission must secure that the copy of the report made available for public inspection does not include, in the case of any donation by an individual, the donor's address.

(3) At the end of the period of 2 years beginning with the date when any report under paragraph 41 or other document accompanying it is received by the Commission—

(a) they may cause the report or other document to be destroyed, or

(b) if requested to do so by the responsible person in the case of the permitted participant concerned, they must arrange for the report or other document to be returned to that person.>

Nicola Sturgeon

45 In schedule 4, page 110, line 1, leave out from <of> to end of line 2 and insert <ending with the 28th day of the referendum period (including the time before the referendum period),>

Nicola Sturgeon

46 In schedule 4, page 110, line 21, at end insert—

- <() Where an individual or body becomes a permitted participant during a period mentioned in sub-paragraph (1)(b) or (c) (“the period in question”)—
- (a) a separate report under this paragraph need not be prepared for any preceding period, but
 - (b) for the purposes of sub-paragraphs (2) and (3), the report for the period in question must also cover the time before the start of the period, and references in those sub-paragraphs are to be read accordingly.
- () Sub-paragraphs (2) and (3) apply to a regulated transaction entered into by a permitted participant before the start of the referendum period only if any money or benefit obtained in consequence of the transaction is to be used for meeting referendum expenses to be incurred by the permitted participant during the referendum period.
- () References in this paragraph and in paragraph 57A to a regulated transaction entered into by a permitted participant include any transaction entered into at a time before the individual or body concerned became a permitted participant, if the transaction would have been a regulated transaction had the individual or body been a permitted participant at that time.>

Nicola Sturgeon

118 In schedule 4, page 111, line 7, at end insert—

<Declaration of responsible person as to transaction reports under paragraph 57

- 57A(1) Each report prepared under paragraph 57 in respect of regulated transactions entered into by a permitted participant must be accompanied by a declaration which complies with sub-paragraph (2) and is signed by the responsible person.
- (2) The declaration must state—
 - (a) that the responsible person has examined the report, and
 - (b) that to the best of the responsible person’s knowledge and belief, it is a complete and correct report as required by law.
 - (3) A person commits an offence if—
 - (a) the person knowingly or recklessly makes a false declaration under this paragraph, or
 - (b) sub-paragraph (1) is contravened at a time when the person is the responsible person in the case of the permitted participant to which the report relates.
 - (4) A person who commits an offence under sub-paragraph (3) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).

Public inspection of transaction reports under paragraph 57

57B(1) Where the Electoral Commission receive a report under paragraph 57 they must—

- (a) as soon as reasonably practicable after receiving the report, make a copy of the report and of any document accompanying it available for public inspection, and
 - (b) keep any such copy available for public inspection for the period for which the report or other document is held by them.
- (2) The Commission must secure that the copy of the report made available for public inspection does not include, in the case of any transaction entered into by the permitted participant with an individual, the individual's address.
- (3) At the end of the period of 2 years beginning with the date when any report under paragraph 57 or other document accompanying it is received by the Commission—
- (a) they may cause the report or other document to be destroyed, or
 - (b) if requested to do so by the responsible person in the case of the permitted participant concerned, they must arrange for the report or other document to be returned to that person.>

Section 11

Nicola Sturgeon

- 48** In section 11, page 6, line 8, leave out <contravention of restrictions or other> and insert <failure to comply with certain>

Nicola Sturgeon

- 49** In section 11, page 6, leave out line 10

Schedule 5

Nicola Sturgeon

- 50** In schedule 5, page 118, line 23, leave out paragraph 13 and insert—
- <(1) Guidance (and revised guidance) published by the Electoral Commission under paragraph 14 of Schedule 19B (investigatory powers of the Commission) to the 2000 Act has effect, with any necessary modifications, for the purposes of this schedule as it has effect for the purposes of that Schedule.
 - (2) The Commission may publish additional guidance in relation to the application of this schedule.
 - (3) Where appropriate, the Commission must revise guidance published under sub-paragraph (2) and publish the revised guidance.
 - (4) The Commission must have regard to the guidance and revised guidance referred to in sub-paragraph (1) and any guidance or revised guidance published under sub-paragraph (2) or (3) in exercising their functions under this Act.>

Nicola Sturgeon

- 51** In schedule 5, page 119, line 4, leave out from <report> to <information> and insert <Electoral Commission must, in accordance with this paragraph, make a report>

Nicola Sturgeon

- 52 In schedule 5, page 119, line 17, at end insert—
- <(4) The report may be made—
 - (a) in the report by the Commission under section 24,
 - (b) in a separate report made as soon as reasonably practicable after the report under section 24 is published, or
 - (c) partly in accordance with paragraph (a) and partly in accordance with paragraph (b).
 - (5) The Commission must—
 - (a) lay any report under sub-paragraph (4)(b) before the Scottish Parliament, and
 - (b) after laying, publish the report in such manner as they may determine.>

Schedule 6

Nicola Sturgeon

- 53 In schedule 6, page 119, line 32, leave out <prescribed>

Nicola Sturgeon

- 54 In schedule 6, page 119, line 32, leave out from <, or> to end of line 34 and insert <listed in Part 8.>

Nicola Sturgeon

- 55 In schedule 6, page 120, line 3, leave out <prescribed>

Nicola Sturgeon

- 56 In schedule 6, page 120, line 3, after <offence> insert <listed in Part 8>

Nicola Sturgeon

- 57 In schedule 6, page 120, line 4, leave out from <(otherwise> to <virtue> in line 5 and insert <failed to comply with a requirement imposed by paragraph 22(2), (3) or (4)>

Nicola Sturgeon

- 58 In schedule 6, page 120, line 7, leave out <a prescribed amount> and insert <£200>

Nicola Sturgeon

- 59 In schedule 6, page 120, leave out lines 8 to 13

Nicola Sturgeon

- 60 In schedule 6, page 120, line 18, leave out from <a> to end of line 19 and insert <£200.>

Nicola Sturgeon

61 In schedule 6, page 120, leave out line 31

Nicola Sturgeon

62 In schedule 6, page 120, leave out line 37

Nicola Sturgeon

63 In schedule 6, page 120, line 38, at end insert <and must be made within the period of 28 days beginning with the day on which the notice under sub-paragraph (4) is received.

- () Where an appeal under sub-paragraph (6) is made, the fixed monetary penalty is suspended from the day on which the appeal is made until the day on which the appeal is determined or withdrawn.>

Nicola Sturgeon

64 In schedule 6, page 121, line 20, at end insert—

<Late payment

- (1) A fixed monetary penalty must be paid within the period of 28 days beginning with the day on which the notice under paragraph 2(4) is received.
- (2) If the penalty is not paid within that period the amount payable is increased by 25%.
- (3) If the penalty (as increased by sub-paragraph (2)) is not paid within the period of 56 days beginning with the day on which the notice under paragraph 2(4) is received, the amount payable is the amount of the fixed monetary penalty originally imposed increased by 50%.
- (4) In the case of an appeal, any penalty which falls to be paid, whether because the sheriff upheld the penalty or because the appeal was withdrawn, is payable within the period of 28 days beginning with the day of determination or withdrawal of the appeal, and if not paid within that period the amount payable is increased by 25%.
- (5) If the penalty (as increased by sub-paragraph (4)) is not paid within the period of 56 days beginning with the day of determination or withdrawal of the appeal, the amount payable is the amount of the fixed monetary penalty originally imposed increased by 50%.>

Nicola Sturgeon

65 In schedule 6, page 122, line 1, leave out <prescribed>

Nicola Sturgeon

66 In schedule 6, page 122, line 1, leave out from <, or> to end of line 3 and insert <listed in Part 8.>

Nicola Sturgeon

67 In schedule 6, page 122, line 6, leave out <prescribed>

Nicola Sturgeon

- 68 In schedule 6, page 122, line 6, after <offence> insert <listed in Part 8>

Nicola Sturgeon

- 69 In schedule 6, page 122, line 7, leave out from <(otherwise> to <virtue> in line 8 and insert <failed to comply with a requirement imposed by paragraph 22(2), (3) or (4)>

Nicola Sturgeon

- 70 In schedule 6, page 122, line 11, after <determine> insert <up to a maximum of £10,000, (but see also sub-paragraph (6))>

Nicola Sturgeon

- 71 In schedule 6, page 122, line 13, leave out <contravention> and insert <failure to comply>

Nicola Sturgeon

- 72 In schedule 6, page 122, line 17, leave out <contravention> and insert <failure to comply>

Nicola Sturgeon

- 73 In schedule 6, page 122, line 26, leave out <(1)(a)> and insert <(1)>

Nicola Sturgeon

- 74 In schedule 6, page 123, leave out line 7

Nicola Sturgeon

- 75 In schedule 6, page 123, leave out line 19

Nicola Sturgeon

- 76 In schedule 6, page 123, line 20 at end insert <and must be made within the period of 28 days beginning with the day on which the notice under sub-paragraph (5) is received.

() Where an appeal under sub-paragraph (6) is made, the discretionary requirement is suspended from the day on which the appeal is made until the day on which the appeal is determined or withdrawn.>

Nicola Sturgeon

- 77 In schedule 6, page 124, line 8, at end insert—

<Compliance and restoration certificates

8A(1) Where, after the service of a notice under paragraph 6(5) imposing a non-monetary discretionary requirement on a person, the Commission are satisfied that the person has taken the steps specified in the notice, they must issue a certificate to that effect.

(2) A notice served under paragraph 6(5) ceases to have effect on the issue of a certificate relating to that notice.

- (3) A person on whom a notice under paragraph 6(5) has been served may at any time apply for a certificate and the Commission must make a decision whether to issue a certificate within the period of 28 days beginning with the day on which they receive such an application.
- (4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the notice has been complied with.
- (5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—
 - (a) the grounds for the decision not to issue a certificate, and
 - (b) rights of appeal.
- (6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information.
- (7) Where the Commission revoke a certificate, the notice has effect as if the certificate had not been issued.
- (8) A person who has applied for a certificate under sub-paragraph (3) may appeal to a sheriff against a decision not to issue a certificate under this paragraph on the ground that the decision was—
 - (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unfair or unreasonable.
- (9) An appeal must be made within the period of 28 days beginning with the day on which notification of the decision is received.>

Nicola Sturgeon

78 In schedule 6, page 124, leave out lines 13 and 14 and insert—

- <() The amount of a non-compliance penalty is to be determined by the Commission, but must not exceed £10,000.
- () A non-compliance penalty must be paid to the Commission.
- () A notice under sub-paragraph (1) must include information as to—
- (a) the grounds for imposing the non-compliance penalty,
 - (b) the amount of the penalty,
 - (c) how payment may be made,
 - (d) the period within which payment must be made, which must be not less than 28 days beginning with the day on which the notice imposing the penalty is received,
 - (e) rights of appeal, and
 - (f) the consequences of failure to make payment within the period specified.
- () If, before the end of the period specified for payment of a non-compliance penalty—

- (a) the person on whom the penalty was imposed has taken the steps specified in the notice imposing the non-monetary discretionary requirement to which the penalty relates, and
 - (b) the Commission have issued a certificate under paragraph 8A(1) in respect of that notice,
- the Commission may waive, or reduce the amount of, the penalty.>

Nicola Sturgeon

79 In schedule 6, page 124, leave out line 21

Nicola Sturgeon

80 In schedule 6, page 124, line 22, at end insert <and must be made within the period of 28 days beginning with the day on which the notice under sub-paragraph (1) is received.

- () Where an appeal under sub-paragraph (3) is made, the non-compliance penalty is suspended from the day on which the appeal is made until the day on which the appeal is determined or withdrawn.

Late payment

- (1) A variable monetary penalty must be paid within the period of 28 days beginning with the day on which the notice under paragraph 6(5) is received.
- (2) If the penalty is not paid within that period the amount payable is increased by 25%.
- (3) If the penalty (as increased by sub-paragraph (2)) is not paid within 56 days of the day on which the notice under paragraph 6(5) is received, the amount payable is the amount of the penalty originally imposed increased by 50%.
- (4) In the case of an appeal, any penalty which falls to be paid, whether because the sheriff upheld the penalty or varied it, or because the appeal was withdrawn, is payable within 28 days of the day of determination or withdrawal of the appeal, and if it is not paid within that period the amount payable is increased by 25%.
- (5) If the penalty (as increased by sub-paragraph (4)) is not paid within 56 days of the day of determination or withdrawal of the appeal the amount payable is the amount of the penalty originally imposed increased by 50%.>

Nicola Sturgeon

81 In schedule 6, page 124, line 33, leave out <prescribed>

Nicola Sturgeon

82 In schedule 6, page 124, line 33, leave out from <, or> to <4> in line 35 and insert <listed in Part 8>

Nicola Sturgeon

83 In schedule 6, page 125, line 8, leave out <prescribed>

Nicola Sturgeon

- 84 In schedule 6, page 125, line 8, leave out from <, or> to <4> in line 10 and insert <listed in Part 8>

Nicola Sturgeon

- 85 In schedule 6, page 125, line 32, at end insert—
- <() An application for a completion certificate must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the stop notice has been complied with.
 - () Where, on an application under sub-paragraph (3), the Commission decide not to issue a completion certificate they must notify the applicant and provide the applicant with information as to—
 - (a) the grounds for the decision not to issue a completion certificate, and
 - (b) rights of appeal.
 - () The Commission may revoke a completion certificate if it was granted on the basis of inaccurate, incomplete or misleading information.
 - () Where the Commission revoke a completion certificate, the stop notice has effect as if the certificate had not been issued.>

Nicola Sturgeon

- 86 In schedule 6, page 126, leave out line 4

Nicola Sturgeon

- 87 In schedule 6, page 126, leave out line 10

Nicola Sturgeon

- 88 In schedule 6, page 126, line 11, at end insert—
- <() An appeal under sub-paragraph (1) against a decision to serve a stop notice must be made within the period of 28 days beginning with the day on which the stop notice is received.
 - () An appeal under sub-paragraph (2) against a decision not to issue a completion certificate must be made within the period of 28 days beginning with the day on which notification of the decision is received.
 - () Where an appeal under sub-paragraph (1) or (2) is made, the stop notice continues to have effect unless it is suspended or varied on the order of the sheriff.>

Nicola Sturgeon

- 89 In schedule 6, page 126, line 23, leave out <prescribed>

Nicola Sturgeon

- 90 In schedule 6, page 126, line 23, leave out from <, or> to end of line 25 and insert <listed in Part 8,>

Nicola Sturgeon

- 91 In schedule 6, page 126, line 29, leave out <or contravention>

Nicola Sturgeon

- 92 In schedule 6, page 126, line 32, leave out <or contravention>

Nicola Sturgeon

- 93 In schedule 6, page 126, line 32, leave out from second <or> to <description,> in line 33

Nicola Sturgeon

- 94 In schedule 6, page 127, line 8, at end insert—

<Enforcement undertakings: further provision

15A(1) An enforcement undertaking must be in writing and include—

- (a) a statement that the undertaking is an enforcement undertaking regulated by this Act,
 - (b) the terms of the undertaking,
 - (c) the period within which the action specified in the undertaking must be completed,
 - (d) details of how and when a person is to be considered to have complied with the undertaking, and
 - (e) information as to the consequences of failure to comply in full or in part with the undertaking, including reference to the effect of paragraph 15(2).
- (2) The enforcement undertaking may be varied or extended if the person who has given the undertaking and the Electoral Commission agree.
- (3) The Commission may publish any enforcement undertaking which they accept in whatever manner they see fit.

Compliance certificate

15B(1) Where, after accepting an enforcement undertaking from a person, the Electoral Commission are satisfied that the undertaking has been complied with in full they must issue a certificate to that effect.

- (2) An enforcement undertaking ceases to have effect on the issue of a certificate relating to that undertaking.
- (3) A person who has given an enforcement undertaking may at any time apply for a certificate, and the Commission must make a decision whether to issue a certificate within the period of 28 days beginning with the day on which they receive such an application.
- (4) An application under sub-paragraph (3) must be accompanied by such information as is reasonably necessary to enable the Commission to determine whether the undertaking has been complied with.

- (5) Where, on an application under sub-paragraph (3), the Commission decide not to issue a certificate they must notify the applicant and provide the applicant with information as to—
 - (a) the grounds for the decision not to issue a certificate, and
 - (b) rights of appeal.
- (6) The Commission may revoke a certificate if it was granted on the basis of inaccurate, incomplete or misleading information.
- (7) Where the Commission revoke a certificate, the enforcement undertaking has effect as if the certificate had not been issued.

Appeals

- 15C (1) A person who has given an enforcement undertaking may appeal to the sheriff against a decision not to issue a certificate under paragraph 15B on the ground that the decision was—
- (a) based on an error of fact,
 - (b) wrong in law, or
 - (c) unfair or unreasonable.
- (2) An appeal must be made within the period of 28 days beginning with the day on which notification of the Electoral Commission’s decision is received.>

Nicola Sturgeon

- 95 In schedule 6, page 127, line 12, leave out paragraphs 16 to 21

Nicola Sturgeon

- 96 In schedule 6, page 130, line 6, at end insert—

<Withdrawal or variation of notice

- (1) The Electoral Commission may by notice in writing at any time withdraw a notice served under paragraph 2(4).
- (2) The Commission may by notice in writing at any time—
 - (a) withdraw a notice served under paragraph 6(5),
 - (b) reduce the monetary amount payable under such a notice, or
 - (c) reduce the steps to be taken under such a notice.
- (3) The Commission may by notice in writing at any time withdraw a stop notice (but may serve another stop notice in respect of the same activity specified in the withdrawn notice).>

Nicola Sturgeon

- 97 In schedule 6, page 130, line 20, leave out paragraph 25 and insert—

- <(1) Guidance (and revised guidance) published by the Electoral Commission under paragraph 25 of Schedule 19C (civil sanctions) to the 2000 Act has effect, with any necessary modifications, for the purposes of this schedule as it has effect for the purposes of that Schedule.
- (2) The Commission may publish additional guidance in relation to the application of this schedule.
- (3) Where appropriate, the Commission must revise guidance published under sub-paragraph (2) and publish the revised guidance.
- (4) The Commission must have regard to the guidance and revised guidance referred to in sub-paragraph (1) and any guidance or revised guidance published under sub-paragraph (2) or (3) in exercising their functions under this Act.>

Nicola Sturgeon

98 In schedule 6, page 131, line 18, at end insert—

<Recovery of penalties etc.

The Electoral Commission may recover as a civil debt—

- (a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty, and
- (b) any interest or other financial payment for late payment of such a penalty.>

Nicola Sturgeon

99 In schedule 6, page 131, line 29, leave out from <report> to <information> and insert <Electoral Commission must, in accordance with this paragraph, make a report>

Nicola Sturgeon

100 In schedule 6, page 132, line 4, at end insert—

- <(4) The report may be made—
 - (a) in the report by the Commission under section 24,
 - (b) in a separate report made as soon as reasonably practicable after the report under section 24 is published, or
 - (c) partly in accordance with paragraph (a) and partly in accordance with paragraph (b).
- (5) The Commission must—
 - (a) lay any report under sub-paragraph (4)(b) before the Scottish Parliament, and
 - (b) after laying, publish the report in such manner as they may determine.>

Nicola Sturgeon

101 In schedule 6, page 132, line 13, at end insert—

<Powers of sheriff

- (1) On an appeal under paragraph 2(6) the sheriff may overturn or confirm the penalty.
- (2) On an appeal under paragraph 6(6), 9(3) or 13(1) the sheriff may—

- (a) overturn, confirm or vary the requirement or notice,
 - (b) take such steps as the Electoral Commission could take in relation to the act or omission giving rise to the requirement or notice,
 - (c) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Commission.
- (3) On an appeal under paragraph 8A(3), 13(2) or 15C(1) the sheriff may make an order requiring the Commission to issue (as appropriate)—
- (a) a certificate under paragraph 8A(1),
 - (b) a completion certificate under paragraph 12(1), or
 - (c) a certificate under paragraph 15B(1).>

Nicola Sturgeon

102 In schedule 6, page 132, leave out lines 18 and 19

Nicola Sturgeon

103 In schedule 6, page 132, leave out line 26

Nicola Sturgeon

104 In schedule 6, page 132, leave out line 31

Nicola Sturgeon

119 In schedule 6, page 132, line 32, at end insert—

<PART 8

LISTED CAMPAIGN OFFENCES

The following table lists campaign offences for the purposes of this schedule.

<i>Provision creating offence</i>	<i>General description of campaign offence</i>
Section 13(4)(a)	Failure to supply information to relevant person as required by schedules 4 to 6
Paragraph 12(2) of schedule 4	Incurring referendum expenses without authority
Paragraph 13(4)(a) of schedule 4	Making payment in respect of referendum expenses without authority
Paragraph 13(4)(b) of schedule 4	Failure to notify responsible person of payment in respect of referendum expenses

<i>Provision creating offence</i>	<i>General description of campaign offence</i>
Paragraph 14(3)(a) of schedule 4	Paying claim in respect of referendum expenses where failure to comply with procedure
Paragraph 14(3)(b) of schedule 4	Paying claim in respect of referendum expenses outside specified time period
Paragraph 17(3) of schedule 4	Individual (other than permitted participant) exceeding limits on referendum expenses
Paragraph 17(5) of schedule 4	Body (other than permitted participant) exceeding limits on referendum expenses
Paragraph 18(6) of schedule 4	Permitted participant exceeding limits on referendum expenses
Paragraph 20(7)(a) of schedule 4	Failure to comply with requirements for declaration
Paragraph 22(5)(a) of schedule 4	Failure to deliver return to Electoral Commission
Paragraph 22(5)(b) of schedule 4	Failure to comply with requirements for return to Electoral Commission
Paragraph 22(5)(c) of schedule 4	Failure to deliver to the Electoral Commission a return of sums paid in pursuance of leave given to pay late claims
Paragraph 23(4)(b) of schedule 4	Failure of responsible person of permitted participant (other than an individual) to provide or sign declaration with return to Electoral Commission
Paragraph 26(7) or (8) of schedule 4	Printing or publishing referendum material without details of printer or publisher
Paragraph 33(7) of schedule 4	Failure to provide information about donors

<i>Provision creating offence</i>	<i>General description of campaign offence</i>
Paragraph 34(4) or (6) of schedule 4	Failure to return donations
Paragraph 41(7)(a) of schedule 4	Failure to deliver donation reports to Electoral Commission within time limits
Paragraph 41(7)(b) of schedule 4	Failure to comply with requirements for recording donations in donation reports
Paragraph 41A(3)(b) of schedule 4	Failure of responsible person of permitted participant (other than an individual) to provide or sign declaration with donation report
Paragraph 49(1) of schedule 4	Permitted participant (individual) knowingly enters into regulated transaction with unauthorised participant
Paragraph 49(2) of schedule 4	Permitted participant (other than an individual) knowingly enters into regulated transaction with unauthorised participant
Paragraph 49(3) of schedule 4	Responsible person for permitted participant (other than an individual) knowingly enters into regulated transaction with unauthorised participant
Paragraph 49(4) of schedule 4	Permitted participant (individual) unknowingly enters into regulated transaction with unauthorised participant and fails to take steps to repay
Paragraph 49(5) or (6) of schedule 4	Failure of responsible person for permitted participant (other than an individual) to take steps to repay money received in connection with a regulated transaction with an unauthorised participant which was entered into unknowingly
Paragraph 49(7) of schedule 4	Permitted participant (individual) knowingly benefits from regulated transaction with unauthorised participant
Paragraph 49(8) or (9) of schedule 4	Permitted participant (other than an individual) knowingly benefits from connected transaction with unauthorised participant

<i>Provision creating offence</i>	<i>General description of campaign offence</i>
Paragraph 49(10) of schedule 4	Permitted participant (individual) fails to take steps to repay benefits from connected transaction with unauthorised participant which was entered into unknowingly
Paragraph 49(11) or (12) of schedule 4	Failure of responsible person for permitted participant (other than an individual) to take steps to repay benefits from connected transaction with unauthorised participant which was entered into unknowingly
Paragraph 57(7)(a) of schedule 4	Failure to deliver transaction reports to Electoral Commission within time limits
Paragraph 57(7)(b) of schedule 4	Failure to comply with requirements for recording transactions in transaction reports
Paragraph 57A(3)(b) of schedule 4	Failure of responsible person of permitted participant (other than an individual) to provide or sign declaration with report relating to regulated transactions
Paragraph 12(1) of schedule 5	Failure to comply with investigation requirement>

Section 16

Nicola Sturgeon

106 In section 16, page 8, line 32, at end insert—

<() a day appointed for public thanksgiving or mourning.>

After section 20

Annabelle Ewing

110 After section 20, insert—

<Code of practice on attendance of observers

- (1) The Electoral Commission must prepare a code of practice on the attendance of—
 - (a) representatives of the Commission,
 - (b) accredited observers, and
 - (c) nominated members of accredited organisations,
at proceedings relating to the referendum.
- (2) The code must in particular—

- (a) specify the manner in which applications under section 18(1) or 19(1) are to be made to the Commission,
 - (b) specify the criteria that the Commission will take into account in determining such applications,
 - (c) give guidance to relevant officers as to the exercise of the powers conferred by section 20(1) and (2),
 - (d) give guidance to such officers as to the exercise, in relation to a person entitled to attend any proceedings by virtue of section 18 or 19, of any other power under this Act to control the number of persons present at any proceedings relating to the referendum,
 - (e) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations as to the exercise of the rights conferred by sections 17, 18 and 19.
- (3) The code may make different provision for different purposes.
 - (4) Before preparing the code, the Commission must consult the Scottish Ministers.
 - (5) The Commission must lay the code before the Scottish Parliament.
 - (6) The Commission must publish the code in such manner as they may determine.
 - (7) The following persons must have regard to the code in exercising any function or right conferred by section 17, 18, 19 or 20—
 - (a) the Commission,
 - (b) representatives of the Commission,
 - (c) relevant officers.
 - (8) The Commission may at any time revise the code.
 - (9) Subsections (4) to (7) apply to a revision of the code as they apply to the code.
 - (10) In this section—
 - “accredited observer” is to be construed in accordance with section 18,
 - “accredited organisation” is to be construed in accordance with section 19, and
 - “nominated member” is to be construed accordingly,
 - “relevant officer” has the meaning given in section 20(4),
 - “representative of the Commission” means a representative of the Electoral Commission within the meaning of section 17(4).>

Section 22

Nicola Sturgeon

107 In section 22, page 11, line 18, at end insert—

<() The Chief Counting Officer may issue guidance to counting officers and registration officers about the exercise of their respective functions under this Act.>

Drew Smith

120 In section 22, page 11, line 23, at end insert—

- <() Guidance issued under subsection (3) must include information as to the circumstances that constitute a common plan or other arrangement for the purposes of paragraph 19 of schedule 4.>

After section 23

Rob Gibson

111* After section 23, insert—

<Encouraging participation

- (1) The Chief Counting Officer must take whatever steps the Chief Counting Officer considers appropriate to—
 - (a) encourage participation in the referendum, and
 - (b) facilitate co-operation among officers taking steps under this section.
- (2) A counting officer must take whatever steps the counting officer considers appropriate to encourage participation in the referendum in the local government area for which the officer is appointed.>

Schedule 7

Nicola Sturgeon

108 In schedule 7, page 134, line 10, after <person> insert <or by post>

Nicola Sturgeon

109 In schedule 7, page 134, line 10, at end insert—

- <() A votes by post as proxy for a voter in the referendum knowing that the voter has already voted in person or by post in the referendum.>

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.scottish.parliament.uk or by contacting Public Information on 0131 348 5000.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS Group Scotland

All documents are available on
the Scottish Parliament website at:

www.scottish.parliament.uk

For details of documents available to
order in hard copy format, please contact:
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk

ISBN 978-1-78351-841-8
