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Delegated Powers and Law Reform Committee

Representation of the People Bill (UK Parliament legislation) - delegated powers exercisable within devolved competence, with reference to LCM-S7-7b.

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Delegated Powers and Law Reform Committee

To consider and report on the following —
a. any—
i. subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
ii. [deleted]
iii. pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;
b. proposed powers to make subordinate legislation in particular Bills or other proposed legislation;
c. general questions relating to powers to make subordinate legislation;
d. whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;
e. any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;
f. proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;
g. any Scottish Law Commission Bill as defined in Rule 9.17A.1;
h. any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and
i. any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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Introduction

1. This report considers the Scottish Government's response , dated 8 October 2026, to a query raised by the Committee in its letter of 2 October 2026 regarding one of the delegated powers in the Representation of the People Bill ("the Bill").

2. At its meetings on 1 and 29 September 2026, the Committee considered a Legislative Consent Memorandum dated 27 February 2026, Supplementary Legislative Consent Memorandum dated 24 June 2026, Second Supplementary Legislative Consent Memorandum dated 21 August 2026 and Third Supplementary Legislative Consent Memorandum dated 10 September 2026 by virtue of Rule 9B.3.6 of the Scottish Parliament's Standing Orders. Paragraph 6 of Rule 9B.3 provides that where the Bill that is subject to an LCM contains provisions conferring on the Scottish Ministers powers to make subordinate legislation, the Delegated Powers and Law Reform Committee shall consider and may report to the lead committee on those provisions.

3. The Bill is also being considered in terms of the Committee's wider remit contained in Rule 6.11.1(b) of the Standing Orders which provides that the remit of the Committee includes considering and reporting on proposed powers to make subordinate legislation in particular bills or other proposed legislation.

4. At its meeting on 29 September 2026, the Committee agreed to report to the lead committee on those matters on which it has reached a concluded view, whilst noting that further consideration of the remaining powers was likely to be required following publication of a further supplementary Legislative Consent Memorandum. The Committee's report was published on 13 October 2026. At that meeting, the Committee also agreed to ask the Scottish Government a question in relation to Clause 66. This report considers the Scottish Government's response.

5. The lead committee is the Standards, Procedures and Public Appointments Committee.

The Bill

6. The Bill was re-introduced by the UK Government on 14 May 2026, having been carried over from the previous Parliamentary Session, and is currently at Report Stage in the House of Commons. As the Bill is still progressing through the UK Parliament, it remains subject to amendment.

7. The Bill encompasses a wide range of electoral reforms. Its overarching purpose is to modernise electoral administration, improve democratic participation and strengthen the integrity and security of the electoral system. The Bill also aims to deliver on several recommendations from the UK Government's 2024 strategic review of electoral registration.

8. Key measures include:

- **Voting rights**: lowers the voting age for UK Parliament elections to 16 and provides for pre-registration from age 14.
- **Electoral registration**: reforms registration processes, including powers to test direct voter registration and measures to improve registration accuracy and accessibility.
- **Election administration**: updates electoral procedures and addresses administrative issues identified through the UK Government review of election arrangements.
- **Voter identification**: expands the range of accepted voter ID at parliamentary elections.
- **Political finance**: strengthens donation controls, introduces additional due diligence requirements and updates digital campaigning rules.
- **Electoral Commission**: expands the Commission's regulatory and enforcement responsibilities.
- **Candidate and electoral staff protection**: introduces measures to address intimidation and harassment and strengthens protections for personal information.

9. The Scottish Government has lodged legislative consent memoranda because the Bill makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament and alters the executive competence of the Scottish Ministers. The interaction between electoral law and the devolution settlement in Scotland is complex. Generally speaking, matters related to UK parliamentary elections are reserved, while electoral law in relation to Scottish Parliament and local government elections is devolved to the Scottish Parliament, subject to the carve-outs in section B3 of schedule 5 of the Scotland Act 1998.

10. The Scottish Government and the UK Government agree that certain measures within the Bill engage the legislative consent process to the extent that they apply to elections within the devolved responsibility of the Scottish Parliament and so apply to Scotland for a purpose within the legislative competence of the Parliament.

11. The Bill was amended during its passage through the House of Commons and an amended version of the Bill was introduced in the House of Lords on 3 September. The Scottish Government lodged a Second Supplementary Legislative Consent Memorandum on 21 August 2026 and a Third Supplementary Legislative Consent Memorandum on 10 September 2026, which take account of those amendments. Three new delegated powers which are exercisable within devolved competence were added to the Bill by amendment.

12. The Scottish Government has now recommended that the Scottish Parliament gives legislative consent to clauses 30, 32, 33, 36, 37 and clause 48 and Schedule 3 of the Bill. In relation to a number of other provisions, particularly within Parts 4 and 5 of the Bill, it has not yet reached a final position.

Delegated Powers

13. The UK Government has published a revised Delegated Powers Memorandum which reflects the Bill as amended and which explains the purpose of each power, why a delegated power is appropriate, and the parliamentary procedure that has been selected.

14. As is standard practice in relation to UK Bills, the Scottish Government has not published a delegated powers memorandum. Its position on the relevant clauses is set out in the LCM.

Review of relevant powers

Clause 66(1) - power for the Secretary of State to make provision in regulations so as to achieve, in relation to relevant donations and relevant transactions, effects equivalent to the effects of relevant provisions of the Bill (clauses 61, 62 and 65 and Schedules 9-12 and 14)

Clause 66(2) - power for the Secretary of State to make provision in regulations to (a) impose prohibitions and restrictions on the use by unincorporated associations of gifts for the purposes of making political contributions which are similar to the prohibitions and restrictions imposed on the acceptance of donations by clauses 62 and 65 of the Bill, and (b) make related provision (including provision about declarations, accounts, reports and offences and transitional provision)

Clause 66(9) - power for the Secretary of State to use the powers in subsection (1) of this clause in certain circumstances in relation to Scottish devolved matters or Welsh devolved matters only if the Secretary of State has obtained the consent of the Scottish Ministers or the Welsh Ministers (as appropriate) beforehand

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Provision

15. Clause 66 confers powers on the Secretary of State to make regulations to impose equivalent or similar prohibitions and restrictions on other political donations, transactions and gifts to those introduced by the Bill regarding relevant donations to and relevant transactions involving registered political parties in relation to the moratorium on cryptoassets, the cap on donations made and transactions entered into by overseas contributors, and transactions/donations to registered parties by company and LLPs.

Committee consideration

16. This is a significant delegated power which enables the Secretary of State to make provision applying the effects of the Bill's new political finance measures to a range of other electoral and referendum regimes, including Scottish Parliament elections and Scottish referendum campaign finance arrangements. Regulations made under subsection (1) or (2) may, among other things, create or amend offences, amend existing legislation, and confer power on the Secretary of State to make orders or regulations by statutory instrument (legislative sub-delegation). In limited circumstances, regulations under clause 66(1)(a) and (b) may also have retrospective effect.

17. The power is nevertheless subject to a number of important limitations. It may only be used to achieve effects equivalent to those arising from specific provisions of the Bill relating to cryptoassets, overseas contributors and company and LLP donations and transactions. In addition, the power is subject to a number of safeguards, including a requirement for consultation with the Electoral Commission, the

affirmative procedure, restrictions on retrospective provision and an 18 month sunset provision. Taken together, these safeguards provide a significant degree of oversight and constraint on the exercise of the power.

18. This power is capable of being exercised in relation to Scottish Parliament elections and Scottish referendums. Clause 66(12) of the Bill now requires the consent of the Scottish Ministers before regulations may be made in relation to devolved matters and, in its Third Supplementary Legislative Consent Memorandum (paragraph 57), the Scottish Government welcomes the amendment introducing that requirement. However, it remains the case that regulations made under the power would be laid before and scrutinised by the UK Parliament only. This would be the case even where regulations would make provision in relation to devolved elections. Such regulations would fall within the scope of the UKSI Protocol and would therefore be notified to the Scottish Parliament. However, notification under the Protocol does not provide an opportunity for formal parliamentary scrutiny before the regulations are made. Given the significance of the power and its potential application to devolved elections and referendums, the Committee agreed to write to the Scottish Government seeking further information.

Question and response

19. On 2 October 2026, the Committee wrote to the Scottish Government to ask whether it considers it appropriate for this power, which is exercisable within devolved competence, to be delegated to the Secretary of State subject to the consent of Scottish Ministers, given that regulations made under the power would not be subject to scrutiny by the Scottish Parliament.

20. In response, the Scottish Government states its intention to ensure that the role of the Scottish Parliament is not diminished if consent is to be given by the Scottish Ministers to the exercise of this power within devolved competence by the Secretary of State. The Scottish Government also notes that the power is subject to a number of safeguards, including consultation requirements, the affirmative procedure and a sunset provision, which limits the period during which the power may be exercised to 18 months from commencement.

21. The Scottish Government intends to make representations to the UK Government that sufficient time should be allowed for the Scottish Ministers and the Scottish Parliament to consider any proposed regulations under this power before consent is granted.

22. **The Committee is content with the power and the applicable procedure.**

23. **The Committee notes the Scottish Government's intention to ask the UK Government for sufficient time for the Scottish Ministers and the Scottish Parliament to consider any proposed regulations under this power before consent is granted.**

24. **The Committee is supportive of this action being taken and wishes to be kept informed of developments in relation to this issue. In particular, what might be meant by "sufficient time" in this context.**

25. **The Committee draws the following to the lead committee's attention:**

- **Only the Secretary of State can exercise the power within the Scottish Parliament's legislative competence.**
- **Regulations will be laid before and scrutinised by the United Kingdom Parliament only.**
- **The Secretary of State must obtain the Scottish Ministers' consent before making the regulations.**
- **The regulations will fall within the scope of the UKSI Protocol and will be notified to the Parliament only after becoming law.**

