

Elections Bill

AMENDMENTS TO BE MOVED IN COMMITTEE

[Supplementary to the Marshalled List]

Amendment
No.

Clause 14

BARONESS MEACHER

A1★ Page 21, leave out lines 6 and 7

4A★ Page 21, line 15, at end insert—

“(5) If the Commission is satisfied that the Government’s strategic and policy priorities conform to the Commission’s own objectives as an independent body, they may decide to implement them.”

After Clause 18

LORD RENNARD

25A★ Insert the following new Clause—

“Electoral Commission guidance to candidates on notional expenditure

The Electoral Commission must publish new guidance to candidates on notional expenditure within the period of 12 months beginning with the day on which this Act is passed.”

Member’s explanatory statement

This amendment requires the Electoral Commission to publish new guidance to candidates on notional expenditure within 12 months of the Act being passed.

Clause 24

LORD HODGSON OF ASTLEY ABBOTTS

33A★ Page 33, line 26, at end insert—

“(za) could not reasonably be expected to have known they were campaigning within a regulated period,”

Member’s explanatory statement

This expands the conditions under which a third party may incur controlled expenditure during a regulated period.

Clause 25

LORD COLLINS OF HIGHBURY

45A★ Page 35, line 10, at end insert –

“(11) The Secretary of State must consult the Electoral Commission before making an order under subsection (9)(a).”

Clause 27

LORD HODGSON OF ASTLEY ABBOTTS

48A★ Page 38, line 21, at end insert –

“(3A) In section 94(6) of PPERA –

(a) in subsection (6) at the end insert “subject to subsections (7A) and (7B)”, and

(b) after subsection (7), insert –

“(7A) Expenditure treated as having been incurred by or on behalf of a third party under subsection (6) may not be taken into account in determining whether or not that third party must register as a lower-tier campaigner in accordance with section 94 in order to avoid breaching the lower-tier expenditure limits or has breached the lower-tier expenditure limits (as defined by section 85(5B)).

(7B) Such expenditure must be taken into account in determining whether that party has breached any other limit in relation to controlled expenditure incurred by or on behalf of a recognised third party under this Act.”

Member’s explanatory statement

This amendment provides that where spending is attributed to a third party due to the operation of the joint campaigning rules, this would not be taken into account in determining whether that third party needs to register as a lower-tier campaigner.

After Clause 27

LORD HODGSON OF ASTLEY ABBOTTS

54A★ Insert the following new Clause –

“Guidance by the Commission relating to third party controls

- (1) PPERA is amended as follows.
- (2) Omit Part 2 of Schedule 8A (controlled expenditure: qualifying expenses).
- (3) After section 100 (public inspection of returns under section 96) insert –

“100A Guidance by the Commission about third parties

- (1) The Commission must prepare, and may from time to time revise, a code of practice giving guidance as to the application of Part VI of this Act to third parties, including in particular, but not limited to –

After Clause 27 - continued

- (a) the kinds of expenses which do, or do not, fall within Part 1 of Schedule 8A, including what categories of person constitute the “public” for the purposes of paragraph 1(1), (2) and (5) of that Schedule,
 - (b) application of section 85(b) to third parties,
 - (c) the relationship between notional controlled expenditure under section 86 and regulation of donations to third parties under section 95 and Schedule 11, and
 - (d) what types of activities and communications between third parties constitute incurring expenditure in pursuance of a plan or other arrangement where the expenditure can reasonably be regarded as intended to achieve a common purpose under section 94.
- (2) The Commission must consult the following on a draft of any guidance or revised guidance prepared in accordance with subsection (1) –
 - (a) the Speaker’s Committee,
 - (b) the Levelling Up, Housing and Communities Select Committee of the House of Commons,
 - (c) the Scottish Ministers, so far as the draft relates to the Commission’s devolved Scottish functions,
 - (d) the Welsh ministers, so far as the draft relates to the Commission’s devolved Welsh functions, and
 - (e) a cross-section of persons and organisations representative of third parties within the meaning of section 85(8) of this Act, including civil society groups.
- (3) As soon as the Commission has prepared a draft code under this section, it must submit it to the Secretary of State for approval.
- (4) The Secretary of State may approve a draft code either without modification or with such modifications as the Secretary of State may determine.
- (5) When the Secretary of State has approved a draft code, the Secretary of State must lay before Parliament a copy of the draft either –
 - (a) in its original form, or
 - (b) in a form which incorporates any modifications determined under subsection (4).
- (6) If the draft incorporates any such modifications, the Secretary of State must at the same time lay a statement of the reasons for making them.
- (7) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State may take no further steps in relation to the draft code.
- (8) If no such resolution is made within the 40-day period –
 - (a) the Secretary of State must issue the code in the form of the draft laid before Parliament, and
 - (b) the code must come into force on such date as the Secretary of State may by order appoint, and the Commission must arrange for it to be published in such manner as they consider appropriate.

After Clause 27 - continued

- (9) Subsection (7) does not prevent a new draft code from being laid before Parliament.
- (10) In this paragraph “40-day period”, in relation to a draft code, means –
 - (a) if the draft is laid before one House on a day later than the other, the period of 40 days beginning with the later of the two days, and
 - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid, no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (11) In this paragraph references to a draft code include a draft revised code.
- (12) The Commission must have regard to guidance issued under this section in exercising its functions.
- (13) It is a defence for a person or third party charged with an offence under this Act to show that any guidance for the time being issued under this section was complied with in relation to Part VI of this Act.”

Member’s explanatory statement

This would expand the power for the Commission to produce a code of conduct on what types of expense will be treated as regulated expenditure by third party campaigners at Schedule 8A PPERA, so that it is (i) a duty rather than a discretionary power and (ii) widened to oblige the Commission to provide guidance on other complex areas of election law for third parties, such as the rules around joint spending, and what constitutes a member.

Clause 39

LORD CLEMENT-JONES

- 180A★** Page 48, line 28, leave out “reasonably practicable” and insert “possible”

Member’s explanatory statement

This amendment replaces “if it is not reasonably practicable to comply” with “if it is not possible to comply” to ensure that the majority of electronic material is within scope of the bill’s intentions.

After Clause 51

LORD CLEMENT-JONES

- 196A★** Insert the following new Clause –

“Electronic material: campaign spending

- (1) Each promoter of electronic material which meets the conditions in section 40 must create electronic libraries that consist of the database specified in subsection (2).
- (2) The database referred to in subsection (1) is an electronic database of all electronic material which meets the conditions in section 40.
- (3) The database specified in subsection (2) above must include the following information in relation to such electronic material –
 - (a) details of expenditure on the relevant electronic material,

After Clause 51 - continued

- (b) the identity of the person by whom the expenditure was made,
 - (c) the identity of the promoter of the relevant electronic material, and
 - (d) details of the intended target audience for the relevant electronic material and the demographic categories of the people who accessed the relevant electronic material.
- (4) The database referred to in subsection (2) must be maintained by the relevant promoter and must be open to inspection by the Commission for a period of no less than 10 years from the date of the election to which the relevant electronic material relates.
- (5) Any promoter which fails to maintain or give access to the database as specified in this section is guilty of an offence.”

Member's explanatory statement

This amendment would ensure greater transparency of campaign spending as it relates to electronic material.

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9 March 2022
