

Elections Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 31st March 2022, as follows –

Clause 1	Schedule 7
Schedule 1	Clause 14
Clause 2	Schedule 8
Schedule 2	Clauses 15 to 29
Clause 3	Schedule 9
Schedule 3	Clauses 30 to 37
Clauses 4 to 6	Schedule 10
Schedule 4	Clauses 38 to 47
Clauses 7 and 8	Schedule 11
Schedule 5	Clauses 48 to 52
Clauses 9 to 11	Schedule 12
Schedule 6	Clauses 53 to 66
Clauses 12 and 13	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 15

LORD JUDGE
LORD WALLACE OF SALTAIRE
LORD YOUNG OF COOKHAM
LORD BLUNKETT

45 Leave out Clause 15

Clause 16

LORD JUDGE
LORD WALLACE OF SALTAIRE
LORD YOUNG OF COOKHAM
LORD BLUNKETT

46 Leave out Clause 16

Clause 19

LORD TRUE

- 47 Page 29, line 24, leave out “a local government election in Scotland or Wales” and insert “an election in Scotland or Wales under the local government Act”

Member’s explanatory statement

See the amendment in Lord True’s name at page 10, line 33.

LORD RENNARD

- 48 Leave out Clause 19

Clause 20

LORD HODGSON OF ASTLEY ABBOTTS

LORD TRUE

- 49 Page 31, line 20, leave out “or paragraph 3(7) of Schedule 8A”

Member’s explanatory statement

This amendment, which leaves out the reference to an order under paragraph 3(7) of Schedule 8A to the Political Parties, Elections and Referendums Act 2000 (in the inserted paragraph (aa) for section 156(3) of that Act), is consequential on the new Clause that Lord Hodgson is seeking to insert after Clause 27.

Clause 21

LORD TRUE

- 50 Page 31, line 30, leave out “a local government election in Wales” and insert “an election in Wales under the local government Act”

Member’s explanatory statement

See the amendment in Lord True’s name at page 10, line 33.

Clause 22

BARONESS NOAKES

LORD TRUE

- 51 Page 32, line 14, leave out “party’s assets/liabilities figure does not exceed £500” and insert “assets/liabilities condition is met in relation to the party”

Member’s explanatory statement

The amendments to Clause 22 in the name of Baroness Noakes ensure that the reporting threshold for section 28(3D) of the Political Parties, Elections and Referendums Act 2000 (declaration of assets and liabilities to be provided on application for registration) is expressed in terms that are consistent with accounting practice.

- 52 Page 32, line 17, leave out “party’s assets/liabilities figure exceeds £500” and insert “assets/liabilities condition is not met in relation to the party”

Member's explanatory statement

See the explanatory statement to the amendment in the name of Baroness Noakes at page 32, line 14.

53 Page 32, leave out lines 19 to 25 and insert –

- “(3C) The assets/liabilities condition is met in relation to a party if –
- (a) the total value of the party's assets does not exceed £500, and
 - (b) the total amount of the party's liabilities does not exceed £500.”

Member's explanatory statement

See the explanatory statement to the amendment in the name of Baroness Noakes at page 32, line 14.

Clause 25

LORD HODGSON OF ASTLEY ABBOTTS
LORD TRUE

54 Page 35, leave out lines 27 to 35

Member's explanatory statement

This amendment, to leave out subsection (6) of the inserted section 89A of the Political Parties, Elections and Referendums Act 2000, is consequential on the new Clause that Lord Hodgson is seeking to insert after Clause 27.

Clause 26

LORD TRUE

55 Page 36, line 34, at end insert –

- “(10) An order under subsection (9)(b) or (c) may be made only where the order gives effect to a recommendation of the Commission.”

Member's explanatory statement

This amendment makes the power to remove or vary entries in the list of categories of third party that may be recognised for the purposes of Part 6 of the Political Parties, Elections and Referendums Act 2000 exercisable only on the recommendation of the Electoral Commission.

After Clause 27

LORD HODGSON OF ASTLEY ABBOTTS
LORD BLUNKETT
LORD TRUE

56 Insert the following new Clause –

“Code of practice on controls relating to third parties

- (1) After section 100 of PPERA insert –

“Code of practice relating to controlled expenditure

100A Code of practice on controlled expenditure

- (1) The Commission must prepare a code of practice about the operation of this Part in relation to a reserved regulated period.
- (2) The code must in particular set out –

After Clause 27 - continued

- (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;
 - (c) guidance on determining whether anything provided to or for the use of a third party falls to be dealt with in accordance with section 86 (notional controlled expenditure) or with 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);
 - (e) guidance about the operation of sections 94D to 94H (targeted controlled expenditure).
- (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.
 - (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 reserved regulated period, to show—
 - (a) that the code, in the form for the time being issued under section 100B, 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.
 - (6) In this section, “reserved regulated period” means a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (regulated periods for parliamentary general elections or general elections to the Northern Ireland Assembly).
 - (7) Section 100B sets out consultation and procedural requirements relating to the code or any revised code.

100B Code of practice: consultation and procedural requirements

- (1) The Commission must consult the following on a draft of a code under section 100A—
 - (a) the Speaker’s Committee;
 - (b) the Levelling Up, Housing and Communities Committee;
 - (c) such other persons as the Commission consider appropriate.
- (2) After the Commission have carried out the consultation required by subsection (1), they 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 Secretary of State for approval by the Secretary of State.

After Clause 27 - continued

- (3) The Secretary of State may approve a draft code either without modifications or with such modifications as the Secretary of State may determine.
- (4) Once the Secretary of State has approved a draft code, the Secretary of State must lay before each House of Parliament a copy of the draft, 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 any such modifications, the Secretary of State must at the same time lay before each House a statement of the Secretary of State's reasons for making them.
- (6) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code.
- (7) Subsection (6) does not prevent a new draft code from being laid before Parliament.
- (8) If no resolution of the kind mentioned in subsection (6) 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,
 - (b) the Commission must arrange for the code to be published in such manner as they consider appropriate, and
 - (c) the code comes into force on such day as the Secretary of State may by order appoint.
- (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—
 - (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, 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 before each House, 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) If the name of the Levelling Up, Housing and Communities Committee is changed, the reference in subsection (1)(b) to that Committee is to be read (subject to subsection (12)) as a reference to the Committee by its new name.
- (12) If the functions of the Levelling Up, Housing and Communities Committee at the passing of this Act with respect to electoral matters (or functions corresponding substantially to such matters) become functions of a different committee of the House of Commons, the reference in subsection (1)(b) to that Committee is to be read as a reference to the committee which for the time being has those functions.”

After Clause 27 - continued

- (2) In section 156 of PPERA (orders and regulations), in subsection (3), before paragraph (a) insert—
“(za) an order under section 100B(8);”.
- (3) In Schedule 8A to PPERA (controlled expenditure: qualifying expenses), in paragraph 3, after sub-paragraph (10) insert—
“(11) This paragraph does not apply in relation to expenses incurred during a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (regulated periods for parliamentary general elections or general elections to the Northern Ireland Assembly) (see sections 100A and 100B as regards expenses incurred during such a period).”

Member’s explanatory statement

This amendment would require the Electoral Commission to publish a code of practice on the operation of Part 6 of the Political Parties, Elections and Referendums Act 2000 (which deals with controlled expenditure of third parties). The code of practice would not apply for the purposes of elections to the Scottish Parliament or Senedd Cymru.

Clause 28

LORD TRUE

57 Leave out Clause 28

Member’s explanatory statement

This amendment would leave out Clause 28 (joint campaigning by registered parties and third parties).

Clause 40

LORD CLEMENT-JONES

58 Page 50, line 33, 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 46

LORD HODGSON OF ASTLEY ABBOTTS

59 Insert the following new Clause—

“Disclosure of status as a recognised third party

- (1) Section 89 of PPERA (Register of notifications for purposes of section 88) is amended as follows.
- (2) At end of heading insert “and third party disclosure of registered status”.
- (3) After subsection (4) insert—

After Clause 46 - continued

- “(5) During a period in which a notification under section 88 is in effect and the Commission has entered details of the notification on the register in accordance with this section, a third party shall disclose its status as a recognised third party in a prominent place on the homepage of its website.
- (6) For the purposes of subsection (5), a reference to a third party's “website” means any part of a website relating to that third party which that third party has caused or authorised to appear.
- (7) Subsection (5) shall not apply where a third party does not have a website within the meaning of subsection (6).
- (8) A person commits an offence if, without reasonable excuse, they contravene subsection (5).”

Member’s explanatory statement

This amendment requires registered non-party campaigners to disclose their status as such on a prominent place on their websites, so as to increase transparency for the public.

LORD CLEMENT-JONES

60 Insert the following new Clause –

“Information on electronic material expenditure

- (1) Candidates and campaigners must include in their returns of election expenses, as required under RPA 1983 –
- (a) copies of invoices from suppliers that include details of the content of electronic material used in their campaign, targeting information (to whom they were sent), and how much was spent on each electronic communication;
- (b) details of the promoter of each electronic communication.
- (2) “Candidates” and “campaigners” have the meanings assigned by sections 31 and 33.”

Member’s explanatory statement

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

61 Insert the following new Clause –

“Election-related electronic material

- (1) Foreign governments, non-United Kingdom resident individuals and entities incorporated outside the United Kingdom are prohibited from publishing, promoting, and paying for, electronic material to which section 41 or 43 applies.
- (2) Subsection (1) above does not apply to any third party falling within the exception to incurring controlled expenditure provided by section 89A(1) of PPERA.
- (3) Any government, corporate entity or individual in breach of subsection (1) above is guilty of an offence.”

Member's explanatory statement

This Clause would explicitly exclude foreign actors from publishing election-related electronic material.

After Clause 52

LORD CLEMENT-JONES

62 Insert the following new Clause –

“Electronic material: campaign spending

- (1) Each promoter of electronic material which meets the conditions in section 41 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 41.
- (3) The database referred to in subsection (2) must include the following information in relation to such electronic material –
 - (a) details of expenditure on the relevant electronic material;
 - (b) the identity of the person by whom the expenditure was made;
 - (c) the identity of the promoter of the relevant electronic material;
 - (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 Clause would ensure greater transparency of campaign spending as it relates to electronic material.

After Clause 60

BARONESS HAYMAN OF ULLOCK
LORD WALLACE OF SALTIRE
BARONESS BENNETT OF MANOR CASTLE

63 Insert the following new Clause –

“Permissible donors

- (1) Section 54 (permissible donors) of PPERA is amended as follows.
- (2) In subsection (2)(a), after “register” insert “at the time at which the donation is made, but not an individual so registered as an overseas elector”.

Member's explanatory statement

This new Clause would prevent overseas electors donating to political parties in the UK.

BARONESS HAYMAN OF ULLOCK
BARONESS JONES OF MOULSECOOMB

64 Insert the following new Clause –

“Review and consolidation of electoral law

Within 12 months of the passing of this Act, the Secretary of State must publish a timetable for undertaking a wholesale review and consolidation of electoral law.”

Member’s explanatory statement

This amendment would implement a recommendation of the House of Commons Public Administration and Constitutional Affairs Committee in its report on the Elections Bill.

LORD CLEMENT-JONES

65 Insert the following new Clause –

“Integrity of election process: offence

- (1) A person who is a campaigner or candidate in respect of a relevant election commits an offence if he or she makes false statements about the integrity of the election process.
- (2) In this section –
 - (a) “campaigner” has the same meaning as in section 33;
 - (b) “candidate” has the same meaning as in section 31;
 - (c) “relevant election” has the same meaning as in section 66 of RPA 1983 (as inserted by section 7 of this Act).”

Member’s explanatory statement

This Clause would make false statements about the integrity of the elections process an offence.

BARONESS BENNETT OF MANOR CASTLE

66 Insert the following new Clause –

“Cap on donations

Before section 54 of PPERA insert –

“53A Cap on donations

- (1) A donation received by a registered party must not be accepted if the value of the donation exceeds the donation cap specified in subsection (2), either –
 - (a) on its own, or
 - (b) when combined with any other donation given by the donor to the registered party since the most recent general election.
- (2) The donation cap is 5% of the party’s campaign expenditure limit (calculated according to paragraph 3 of Schedule 9 of this Act) at the most recent general election.
- (3) Where a party was registered after the most recent general election, the donation cap in subsection (2) shall be calculated as though the party contested every parliamentary constituency in the most recent general election.””

Member's explanatory statement

This amendment imposes a donation cap of 5% of each party's campaign expenditure limit at the most recent general election, and prevents any donor from donating more than this amount in each general election cycle. Special provision is made for new parties.

LORD SIKKA

67 Insert the following new Clause—

“Foundation for Democracy

- (1) The Secretary of State must, within six months beginning with the day on which this Act is passed, establish an independent committee to report on the creation of a Foundation for Democracy (“the Foundation”).
- (2) The Committee must report within 12 months of being established.
- (3) The Committee’s terms of reference must require it to consider the—
 - (a) control,
 - (b) operations, and
 - (c) accountability,
 of the Foundation.
- (4) The Secretary of State must (subject to the approval of each House of Parliament under subsection (6)) implement the Committee’s recommendations by regulations made by statutory instrument.
- (5) If the Committee so recommends, the regulations must provide as follows—
 - (a) the Foundation is to form part of the Electoral Commission;
 - (b) the Foundation’s function is to receive all cash and non-cash donations made to registered political parties and any of their representatives and officers;
 - (c) as a result, no political party or any of its representatives may directly receive any direct amount of cash or non-cash donation from any donor;
 - (d) the Foundation must produce a list of all donations received at monthly intervals;
 - (e) every month, the Foundation must distribute all donations received to registered political parties, proportional to the number of—
 - (i) members of each party, and
 - (ii) votes gained by each party at the previous—
 - (A) parliamentary election,
 - (B) local elections,
 - (C) mayoral elections, and
 - (D) elections for police and crime commissioners;
 - (f) full details of the allocation and distribution of sums by the Foundation must be published.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member's explanatory statement

This amendment would establish a committee to consider a Foundation for Democracy and, if the committee recommends, requires the Secretary of State to make it so that no political party directly receives any donation from third parties. It would not place limits on any political donations.

BARONESS BENNETT OF MANOR CASTLE
LORD SIKKA

68 Insert the following new Clause—

“Consultation on funding of political parties

- (1) Within 12 months beginning with the day on which this Act is passed, the Secretary of State must consult and publish a report on proposals for—
 - (a) state funding of political parties, and
 - (b) limitations on private donations received by political parties,
 and lay it before both Houses of Parliament.
- (2) The report under subsection (1) must include proposals for the following—
 - (a) setting donation caps on private donors,
 - (b) setting caps on the total legacy that can be left to a political party in a will,
 - (c) apportioning funding to political parties by reference to their electoral support, and
 - (d) apportioning funding to political parties by reference to registered voters nominating funds to be apportioned to a particular party on their behalf.”

Member's explanatory statement

This amendment would require the Government to publish a report setting out proposals to establish state funding of political parties and limitations on private donations.

LORD ROOKER
LORD BUTLER OF BROCKWELL

69 Insert the following new Clause—

“Risk assessment and due diligence policies, controls and procedures

After section 54B of PPERA insert—

“54C Risk assessment and due diligence policies, controls and procedures

- (1) A registered party must develop and publish a reasonable and proportionate risk-based policy for identifying the true source of donations and for managing donations, in accordance with regulations made by the Secretary of State by statutory instrument.
- (2) A registered party must have reasonable and proportionate risk assessment and due diligence controls and procedures for record-keeping, monitoring and management of compliance with, and internal communication of, risk assessment and due diligence policies, in accordance with the regulations made by the Secretary of State by statutory instrument.

After Clause 60 - continued

- (3) Where a permissible donor causes an amount exceeding £7,500 to be received by a registered party by way of a donation, or an aggregate amount of donations in the same calendar year, a registered party must undertake enhanced risk assessment and due diligence checks, including—
 - (a) the donor's principal place of business if different from its registered office,
 - (b) the nature of the donor's business,
 - (c) the people with significant control of the donor's business, and
 - (d) the names of the donor's directors or senior persons responsible for its operations.
- (4) Where a donor causes an amount exceeding £7,500 to be received by a registered party by way of a donation, or an aggregate amount of donations in the same calendar year, a written declaration must be given to the party—
 - (a) by the donor, if they are an individual, or
 - (b) if not, by an individual authorised by the donor to make the declaration,stating, to the best of the individual's knowledge and belief, whether or not subsection (5) applies to the donor.
- (5) This subsection applies if—
 - (a) the donor's business falls within a high-risk business sector, or
 - (b) the donor has been under formal investigation by a regulator or law enforcement body for, or convicted of, any of the offences listed in the regulations made by the Secretary of State by statutory instrument.
- (6) A declaration under subsection (4) of this section must also state the full name and address of the person by whom it is made and, where subsection (4)(b) applies—
 - (a) state that the person is authorised by the donor to make the declaration, and
 - (b) describe the person's role or position in relation to the donor.
- (7) A registered party must not accept a donation, or an aggregate amount of donations in the same calendar year, exceeding £7,500, from a permissible donor unless it has undertaken and recorded the enhanced risk assessment and due diligence checks under subsection (3).
- (8) A registered party may undertake simplified risk assessment and due diligence checks for donors after completing the enhanced risk assessment and due diligence checks under subsection (3) and for donations, or an aggregate amount of donations in the same calendar year, equal to or not exceeding £7,500.
- (9) A registered party must conduct ongoing monitoring of a donor relationship, including—
 - (a) scrutiny of donations throughout the course of the relationship, including the true source of donations, to ensure that the donations are consistent with the registered party's knowledge of the donor, the donor's business and risk profile, and

After Clause 60 - continued

- (b) undertaking reviews of existing records and keeping the documents or information obtained up-to-date for the purposes of applying due diligence measures.
- (10) A registered party must include a statement of risk management in its annual accounts that identifies how risks relating to the true source of funds have been managed.
- (11) A person who knowingly or recklessly makes a false declaration or provides false information to a registered party under this section commits an offence.
- (12) For the purposes of this section, “high-risk business sector” means –
 - (a) extractive industries,
 - (b) gambling and betting,
 - (c) cryptocurrencies,
 - (d) travel agencies,
 - (e) pharmaceuticals,
 - (f) currency exchange.
- (13) This section comes into force at the end of the period of three months beginning with the day on which the Elections Act 2022 is passed.”

BARONESS HAYMAN OF ULLOCK
LORD RENNARD

69A Insert the following new Clause –

“Non-resident donors

Within the period of 3 months beginning with the day on which this Act is passed, the Secretary of State must make an order under section 43 of the Political Parties and Elections Act 2009 so as to bring section 10 of that Act (non-resident donors etc) into force.”

Member’s explanatory statement

This amendment requires the Secretary of State to bring the provisions of section 10 of the Political Parties and Elections Act 2009, relating to non-resident donors, into force within 3 months of this Act being passed.

LORD RENNARD

69B★ Insert the following new Clause –

“Permissible donors: overseas electors

- (1) Section 54 (permissible donors) of PPERA is amended as follows.
- (2) After subsection (1)(b) insert “, or
 - (c) the person is registered as an overseas elector and the amount of the donation or donations exceeds £7,500 per annum.”

Member’s explanatory statement

This new Clause would prevent overseas electors donating more than £7,500 to political parties in the UK.

Before Clause 61

LORD TRUE

69C Insert the following new Clause—

“Review of operation of Act

- (1) The Secretary of State must, within the review period—
 - (a) prepare a report on the operation of this Act,
 - (b) publish the report, and
 - (c) lay a copy of the report before Parliament.
- (2) In subsection (1), “the review period” is the period—
 - (a) beginning with the fourth anniversary of the day on which this Act is passed, and
 - (b) ending with the fifth anniversary of that day.”

Member’s explanatory statement

This amendment requires the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than 4 and not more than 5 years after it receives Royal Assent.

Clause 64

LORD TRUE

69D Page 67, line 18, after “24” insert “, 27”

Member’s explanatory statement

This minor and technical amendment ensures that the territorial extent of amendments to Schedule 1 to the Representation of the People Act 1983 made by Schedule 1 to the Bill is correctly stated.

BARONESS QUIN

70 Page 67, line 20, leave out sub-paragraph (ii)

Clause 65

LORD STUNELL

LORD WALLACE OF SALTIRE

71★ Page 68, line 17, at end insert—

- “(3A) Regulations must not be laid to bring Section 13 into force until—
- (a) a period of two years has passed since this Act is passed;
 - (b) the Secretary of State has published guidance to Electoral Registration Officers on how to determine whether an applicant has been resident in the UK for electoral registration purposes; and
 - (c) the Secretary of State has laid before Parliament a report on—
 - (i) the documentary evidence that may be required to support an application to be an overseas elector;
 - (ii) the length of time that a person must have previously been in the UK in order to register as an overseas elector;

Clause 65 - continued

- (iii) the security and timeliness of the delivery and return of ballots to overseas electors; and
- (iv) such other matters pertaining to the registration of individuals as overseas electors as the Secretary of State considers relevant.”

Member’s explanatory statement

This amendment delays section 13 (overseas electors) coming into force for a period of at least two years, and until the Secretary of State has laid a report before Parliament on how the system of registration of overseas electors is to operate. It also requires the Secretary of State to publish guidance to Electoral Registration Officers.

Elections Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
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21 April 2022
