



# Scotland Act 2016

## 2016 CHAPTER 11

### PART 1

#### CONSTITUTIONAL ARRANGEMENTS

##### *Elections etc*

#### **7 Expenditure in connection with elections**

- (1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.
- (2) After section 72 (campaign expenditure) insert—

##### **“72A Campaign expenditure: power of Scottish Ministers**

- (1) The powers under the following provisions of Schedule 8 are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament—
  - (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
  - (b) paragraph 3(7) (power to appoint day when code comes into force), and
  - (c) paragraph 4(1) (power to amend Part 1 of Schedule 8).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8 apply—
  - (a) as if any reference to the Secretary of State were a reference to the Scottish Ministers,
  - (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were a reference to the Scottish Parliament,

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- (c) as if in paragraph 3(9) for the words from “means—” to the end there were substituted “ means the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament. ”
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Scottish Parliament and to the date of any other election.”
- (3) After section 85 (controlled expenditure of third parties) insert—

**“85A Controlled expenditure of third parties: power of Scottish Ministers**

- (1) The powers under the following provisions of Schedule 8A are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament—
  - (a) paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
  - (b) paragraph 3(7) (power to appoint day when code comes into force), and
  - (c) paragraph 4(1) (power to amend Part 1 of Schedule 8A).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8A apply—
  - (a) as if any reference to the Secretary of State were a reference to the Scottish Ministers,
  - (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were a reference to the Scottish Parliament,
  - (c) as if in paragraph 3(9) for the words from “means—” to the end there were substituted “ means the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament. ”
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Scottish Parliament and to the date of any other election.”
- (4) After section 95 (control of donations to recognised third parties) insert—

**“95ZA Control of donation to recognised third parties: power of Scottish Ministers**

- (1) The powers under the following provisions of Schedule 11 are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament—
  - (a) paragraph 3(4) (power to change meaning of defined expenses and sponsorship),
  - (b) paragraph 6A(6) (power to make regulations about how the value of a benefit is calculated), and

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- (c) paragraph 6B(4) (power to make regulations about the retention of declarations).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3, 6A and 6B of Schedule 11 apply as if any reference to the Secretary of State was a reference to the Scottish Ministers.
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Scottish Parliament and to the date of any other election.”
- (5) Section 95ZA inserted by subsection (4) has effect—
  - (a) until the coming into force of paragraph 1(2) of Schedule 3 to the Political Parties and Elections Act 2009, with the omission of subsection (1)(b) and “6A” in subsection (2);
  - (b) until the coming into force of paragraph 4(2) of Schedule 4 to that Act, with the omission of subsection (1)(c) and “and 6B” in subsection (2).
- (6) Section 155 (power to vary specified sums or percentages) is amended as follows.
- (7) In subsection (1) at the beginning insert “ Except where subsection (1A) applies, ”.
- (8) After subsection (1) insert—

“(1A) The Scottish Ministers may by order vary any sum for the time being specified in Part 5 or 6 so far as that sum applies in relation to an election the conduct of which is within the legislative competence of the Scottish Parliament.”
- (9) In subsection (2)—
  - (a) for the words before paragraph (a) substitute “ An order under subsection (1) or (1A) may be made either— ”, and
  - (b) in paragraph (a) for “he” substitute “ the person making the order ”.
- (10) After subsection (4) insert—

“(4A) Subsection (4B) applies in relation to the sums specified in Schedule 11.

(4B) In each session of the Scottish Parliament, other than a session that is dissolved less than two years after the date of its first sitting, the Scottish Ministers must either—
  - (a) make an order in pursuance of subsection (2)(a), or
  - (b) lay before the Scottish Parliament a statement setting out the Scottish Ministers' reasons for not doing so.”
- (11) Section 156 (orders and regulations) is amended as follows.
- (12) After subsection (4A) insert—

“(4B) Subject to subsections (4C) and (4D), any order or regulations made under this Act by the Scottish Ministers shall be subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

(4C) Subsection (4B) does not apply to an order falling within subsection (3).

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(4D) Subsection (4B) does not apply to an order falling within subsection (4), and any such order made by the Scottish Ministers shall be subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).”

(13) In subsection (5) after each “Secretary of State” insert “ or the Scottish Ministers ”.

(14) In the Interpretation and Legislative Reform (Scotland) Act 2010, in section 30(4) (other instruments laid before the Parliament: exceptions) after paragraph (f) insert—

“(fa) section 155(2)(a) of the Political Parties, Elections and Referendums Act 2000 (c.41),”.

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#### Commencement Information

**II** [S. 7](#) in force at 18.5.2017 by [S.I. 2017/608](#), **reg. 2(1)(e)**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/455, reg. 3 by [S.I. 2019/1438 reg. 2](#)