
Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020.
Cross Heading: Special restrictions on referendum expenses by permitted participants. (See end of Document for details)

SCHEDULE 3 CAMPAIGN RULES

PART 3

REFERENDUM EXPENSES

Special restrictions on referendum expenses by permitted participants

- 20 (1) The total referendum expenses incurred by or on behalf of a permitted participant during the referendum period must not exceed—
- (a) if the permitted participant is a designated organisation, £1,500,000,
 - (b) if the permitted participant is not a designated organisation but is a registered party and has a relevant percentage, whichever is the greater of—
 - (i) the sum calculated by multiplying the sum of £3,000,000 by the party's relevant percentage, or
 - (ii) £150,000, or
 - (c) if the permitted participant is not a designated organisation nor such a registered party, £150,000.
- (2) For the purposes of sub-paragraph (1)(b)—
- (a) a registered party has a relevant percentage if, at the general election for membership of the Scottish Parliament last occurring before the relevant day (“the election”), constituency votes were cast for one or more candidates at the election authorised to use the party's registered name and regional votes were cast for the party, and
 - (b) a registered party's relevant percentage is equal to the sum (rounded to one decimal place) of—
 - (i) the total number of constituency votes cast at the election for the candidate or candidates mentioned in paragraph (a) expressed as a percentage of the total number of constituency votes cast at that election for all candidates, multiplied by 56.6%, and
 - (ii) the total number of regional votes cast at the election for the party expressed as a percentage of the total number of regional votes cast at that election for all registered parties and individual candidates, multiplied by 43.4%.
- (3) In sub-paragraph (2)(a) the “relevant day” is the day on which the Act of the Scottish Parliament referred to in section 1(2) or regulations made under that Act come into force.
- (4) Sub-paragraph (5) applies in the case where, at the election, a candidate stood for return as a constituency member in the name of more than one registered party.
- (5) For the purposes of sub-paragraph (2)(b)(i), the number of constituency votes cast for the candidate is to be divided equally among each of the registered parties in whose name the candidate stood.
- (6) In sub-paragraphs (2) to (5)—
“constituency member” has the meaning given in section 126(1) of the Scotland Act 1998,

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“constituency vote” means a vote cast for a candidate standing for return as a constituency member,

“regional vote” has the meaning given in section 6(2) of the Scotland Act 1998.

- (7) Where any referendum expenses are incurred by or on behalf of a permitted participant during the referendum period in excess of the limit imposed by sub-paragraph (1), then—
- (a) if the permitted participant is a registered party—
 - (i) the party commits an offence, and
 - (ii) the responsible person or any deputy treasurer of the party also commits an offence if the person or deputy treasurer authorised the expenses to be incurred by or on behalf of the party and knew or ought reasonably to have known that the expenses would be incurred in excess of that limit,
 - (b) if the permitted participant is an individual, that individual commits an offence if the individual knew or ought reasonably to have known that the expenses would be incurred in excess of that limit,
 - (c) if the permitted participant is a body other than a registered party—
 - (i) the body commits an offence, and
 - (ii) the responsible person commits an offence if the person authorised the expenses to be incurred by or on behalf of the body and knew or ought reasonably to have known that the expenses would be incurred in excess of that limit.
- (8) A person who commits an offence under sub-paragraph (7) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.
- (9) It is a defence for a permitted participant or other person charged with an offence under sub-paragraph (7) to show—
- (a) that any code of practice for the time being issued under paragraph 12(3) was complied with in determining the items and amounts of referendum expenses to be entered in the relevant return under paragraph 22, and
 - (b) that the limit would not have been exceeded on the basis of the items and amounts entered in that return.
- (10) Sub-paragraphs (8) to (10) of paragraph 19 apply for the purposes of this paragraph and paragraphs 22 to 25 as they apply for the purposes of paragraph 19, but as if references in them to an individual or body to which that paragraph applies were references to a permitted participant.
- (11) For the purposes of this paragraph and paragraphs 22 to 25 any reference to referendum expenses incurred by or on behalf of a permitted participant during the referendum period includes any referendum expenses so incurred at any time before the individual or body became a permitted participant.

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