



# Elections Act 2022

## 2022 CHAPTER 37

### PART 3

#### THE ELECTORAL COMMISSION

##### *Strategy and policy statement*

#### 16 Strategy and policy statement

After section 4 of PPERA insert—

*“Strategy and policy statement*

##### **4A Strategy and policy statement**

- (1) The Secretary of State may designate a statement for the purposes of this section if the requirements set out in [section 4C](#) (consultation and procedural requirements) are satisfied.
- (2) The statement is a statement prepared by the Secretary of State that sets out—
  - (a) strategic and policy priorities of Her Majesty’s government relating to elections, referendums and other matters in respect of which the Commission have functions, and
  - (b) the role and responsibilities of the Commission in enabling Her Majesty’s government to meet those priorities.
- (3) The statement may also set out—
  - (a) guidance relating to particular matters in respect of which the Commission have functions;
  - (b) any other information (for example, about the roles and responsibilities of other persons) the Secretary of State considers appropriate.

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- (4) In preparing the statement, the Secretary of State must have regard to the duties imposed on the Commission by section 145(1) (duties with respect to compliance with controls imposed by this Act).
- (5) The statement must not contain provision about the carrying out by the Commission of their functions under Schedule 19B (investigatory powers) or Schedule 19C (civil sanctions) in relation to a particular person.
- (6) The statement must not include provision in relation to elections, referendums and other matters so far as the provision would relate to the Commission's devolved Scottish functions or the Commission's devolved Welsh functions.
- (7) A statement designated under this section must be published in whatever manner the Secretary of State considers appropriate.
- (8) For the purposes of subsection (6)—
  - (a) the Commission's "devolved Scottish functions" are the Commission's functions in relation to—
    - (i) Scottish Parliamentary general elections, elections held under section 9 of the Scotland Act 1998 (constituency vacancies), and local government elections in Scotland, so far as those functions do not relate to reserved matters within the meaning of the Scotland Act 1998, and
    - (ii) referendums held throughout Scotland in pursuance of provision made by or under an Act of the Scottish Parliament;
  - (b) the Commission's "devolved Welsh functions" are the Commission's functions in relation to—
    - (i) general elections of members of Senedd Cymru,
    - (ii) elections held under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies),
    - (iii) local government elections in Wales, and
    - (iv) referendums held under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to local authority executive arrangements),
 so far as those functions do not relate to reserved matters within the meaning of the Government of Wales Act 2006.

#### **4B Duties in relation to statement**

- (1) This section applies where a statement has been designated under [section 4A](#).
- (2) The Commission must have regard to the statement when carrying out their functions.
- (3) [Subsection \(2\)](#) does not apply to information contained in the statement by virtue of [section 4A\(3\)\(b\)](#).
- (4) The Commission must publish a report, as soon as practicable after the end of—
  - (a) the period of 12 months beginning with the day on which the statement was first designated under [section 4A](#), and
  - (b) every subsequent 12-month period,

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on what they have done during the period in question in consequence of the statement.

- (5) Where, before the end of a reporting period, the statement is designated by virtue of [section 4D](#) (5-yearly review) or [section 4E](#) (power to revise statement) —
- (a) the Commission are not required to publish a report under [subsection \(4\)](#) in relation to the reporting period, and
  - (b) [subsection \(4\)](#) has effect as if the reference in [paragraph \(a\)](#) to the day on which the statement was first designated under [section 4A](#) were to the day on which the statement was last designated under that section by virtue of [section 4D](#) or [4E](#).
- (6) “Reporting period” means a period in relation to which a report is required to be published under [subsection \(4\)](#).
- (7) The duty under [subsection \(4\)](#) does not apply in relation to a 12-month period if before the end of that period the statement’s designation is withdrawn under [section 4D\(4\)\(c\)](#) or treated as withdrawn under [section 4D\(5\)\(b\)](#).
- (8) The Commission must provide a copy of each report published under [subsection \(4\)](#) to the Speaker’s Committee.

#### **4C Consultation and procedural requirements**

- (1) This section sets out the requirements that must be satisfied before the Secretary of State may designate a statement under [section 4A](#).
- (2) The Secretary of State must consult the following on a draft of the statement—
- (a) the Commission,
  - (b) the Speaker’s Committee, and
  - (c) the Levelling Up, Housing and Communities Committee.
- (3) After the Secretary of State has carried out the consultation required by [subsection \(2\)](#), the Secretary of State—
- (a) must make whatever changes to the draft the Secretary of State considers necessary in light of responses to the consultation, and
  - (b) must prepare a report containing the Secretary of State’s response to the consultation.
- (4) If, after complying with [subsection \(3\)](#), the Secretary of State proposes to designate the statement, the Secretary of State must lay before Parliament a document that—
- (a) explains the Secretary of State’s proposals,
  - (b) sets them out in the form of a draft statement, and
  - (c) contains the report prepared under [subsection \(3\)\(b\)](#).
- (5) Where a document is laid before Parliament under [subsection \(4\)](#), no draft of the statement that the Secretary of State proposes to designate is to be laid before Parliament before the end of the 60-day period.
- (6) In preparing a draft statement for laying before Parliament, the Secretary of State must consider any representations made during the 60-day period in relation to anything in the document laid under [subsection \(4\)](#).

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- (7) If, after the end of the 60-day period, the Secretary of State wishes to proceed with designating the statement, the Secretary of State must lay before Parliament—
  - (a) the draft statement (incorporating any changes made in light of any representations made as mentioned in subsection (6)), and
  - (b) a report containing the Secretary of State’s response to any such representations.
- (8) The draft as laid under subsection (7) must, before the end of the 40-day period, have been approved by a resolution of each House of Parliament before the Secretary of State may designate the statement under section 4A.
- (9) In this section—
  - (a) “the 40-day period” means the period of 40 days beginning on the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the days on which it is laid);
  - (b) “the 60-day period” means the period of 60 days beginning on the day on which the document mentioned in subsection (4) is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the days on which it is laid).
- (10) When calculating the 40-day period or the 60-day period for the purposes of subsection (9)(a) or (b) respectively, ignore any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (11) If the name of the Levelling Up, Housing and Communities Committee is changed, the reference in subsection (2)(c) 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 (2)(c) to that Committee is to be read as a reference to the committee which for the time being has those functions.

#### **4D 5-yearly review and designation of statement**

- (1) The Secretary of State must review a statement designated under section 4A if a period of 5 years has elapsed since—
  - (a) the time when the statement was first designated under section 4A, or
  - (b) if later, the time when the statement was last designated under that section by virtue of this section or section 4E.
- (2) But where—
  - (a) the statement was last designated by virtue of section 4E, and
  - (b) the case was one in which the Secretary of State made a determination under section 4E(5) (disapplication of consultation and other pre-designation requirements on revision of statement),

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the designation of the statement in that case is to be ignored in determining for the purposes of [subsection \(1\)\(b\)](#) when the statement was last designated.

- (3) A review under [subsection \(1\)](#) must take place as soon as reasonably practicable after the end of the 5-year period referred to in that subsection.
- (4) After reviewing the statement, the Secretary of State may—
  - (a) revise the statement,
  - (b) leave the statement as it is, or
  - (c) withdraw the statement’s designation under [section 4A](#).
- (5) Where the Secretary of State proceeds under [subsection \(4\)\(a\)](#) or [\(b\)](#)—
  - (a) the Secretary of State must designate the statement (whether or not revised) under [section 4A\(1\)](#);
  - (b) if the statement is not designated before the end of the review period, the designation of the statement (in the form reviewed under [subsection \(1\)](#)) is treated as withdrawn at the end of that period.
- (6) “The review period” means the 12 months beginning with the end of the 5-year period referred to in [subsection \(1\)](#).
- (7) Sections [4A\(2\)](#) to [\(7\)](#) and [4C](#) apply in relation to the statement and its designation in accordance with [subsection \(5\)\(a\)](#) as they apply in relation to the original statement.

#### **4E Power to revise statement**

- (1) The Secretary of State may revise a statement designated under [section 4A](#) otherwise than in consequence of a review under [section 4D](#).
- (2) The power under [subsection \(1\)](#) may be exercised—
  - (a) on the Secretary of State’s own initiative,
  - (b) at the request of the Commission, where the request—
    - (i) is made by notice given to the Secretary of State and the Speaker’s Committee, and
    - (ii) gives details of the changes to the statement that the Commission propose should be made, or
  - (c) at the request of the Speaker’s Committee, where the request—
    - (i) is made by notice given to the Secretary of State, and
    - (ii) gives details of the changes to the statement that the Speaker’s Committee propose should be made.
- (3) Where a request is made in accordance with [subsection \(2\)\(b\)](#) or [\(c\)](#), the Secretary of State must inform the Commission or the Speaker’s Committee (as the case may be) how the Secretary of State proposes to deal with the request.
- (4) Where the Secretary of State revises the statement under [subsection \(1\)](#)—
  - (a) the Secretary of State must designate the revised statement under [section 4A\(1\)](#), and
  - (b) subject to [subsection \(5\)](#), sections [4A\(2\)](#) to [\(7\)](#) and [4C](#) apply to the revised statement and its designation in accordance with [paragraph \(a\)](#) as they apply to the original statement.

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- (5) The Secretary of State may determine in a particular case that [section 4C\(2\)](#) to [\(6\)](#) (consultation and pre-designation requirements) does not apply in relation to the revised statement.
- (6) Before making a determination under [subsection \(5\)](#), the Secretary of State—
  - (a) must give notice to the Speaker’s Committee of the proposed determination (giving details of the revisions to the statement), and
  - (b) must consider any representations made by the Speaker’s Committee in response to the notice.
- (7) Where the Secretary of State makes a determination under [subsection \(5\)](#), the Secretary of State must notify the following of the revisions to the statement—
  - (a) the Commission,
  - (b) the Speaker’s Committee, and
  - (c) the Levelling Up, Housing and Communities Committee,and [section 4C\(11\)](#) and [\(12\)](#) apply for the purposes of paragraph (c) as they apply for the purposes of [section 4C\(2\)\(c\)](#).
- (8) [Subsection \(9\)](#) applies where the Secretary of State makes a determination under [subsection \(5\)](#) despite the Speaker’s Committee objecting to the proposed determination.
- (9) When laying the revised statement before Parliament in accordance with [section 4C\(7\)\(a\)](#), the Secretary of State must also lay before Parliament a statement of the Secretary of State’s reasons for the determination.
- (10) For the purposes of this section, corrections of clerical or typographical errors do not count as a revision of the statement.”

#### Commencement Information

- I1** S. 16 not in force at Royal Assent, see [s. 67\(1\)](#)  
**I2** [S. 16](#) in force at 19.8.2022 by [S.I. 2022/908](#), [reg. 2](#)

## 17 Examination of duty to have regard to strategy and policy statement

- (1) After section 13 of PPERA insert—

*“Examination of Commission’s duty to have regard to strategy and policy statement*

### **13ZA Examination of duty to have regard to strategy and policy statement**

- (1) The Speaker’s Committee may examine the performance by the Commission of the Commission’s duty under [section 4B\(2\)](#) (duty to have regard to strategy and policy statement).
- (2) The Speaker’s Committee may require the Commission to provide the Committee with information that—
  - (a) the Committee require for the purposes of enabling them to exercise their power under [subsection \(1\)](#), and

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- (b) is held by the Commission.
  - (3) The Commission—
    - (a) must as soon as is reasonably practicable provide the Speaker’s Committee with information required under [subsection \(2\)](#), and
    - (b) must provide the information in such form as the Committee may reasonably require.
  - (4) A requirement imposed on the Commission under [subsection \(2\)](#) does not require the Commission to provide information that, in their opinion, might adversely affect any current investigation or proceedings.
  - (5) Except as provided by subsection (6), the disclosure of information pursuant to a requirement imposed under [subsection \(2\)](#) does not breach—
    - (a) any obligation of confidence owed by the Commission, or
    - (b) any other restriction on the disclosure of information (however imposed).
  - (6) A requirement imposed on the Commission under [subsection \(2\)](#) does not require them to disclose information if to do so would contravene the data protection legislation (but, in determining whether a disclosure would do so, the requirement imposed on the Commission is to be taken into account).
  - (7) In [subsection \(6\)](#), “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).”
- (2) In Schedule 2 to PPERA (Speaker’s Committee), after paragraph 3 insert—

*“Protection for witnesses etc*

- 4 (1) Evidence given by a person who is a witness before the Speaker’s Committee may not be used against the person in any civil or disciplinary proceedings, or in any criminal proceedings, unless the evidence was given in bad faith.
- (2) For the purposes of the law of defamation the publication by the Speaker’s Committee of any evidence given by a person who is a witness before the Speaker’s Committee is absolutely privileged.”

#### Commencement Information

- I3** S. 17 not in force at Royal Assent, see [s. 67\(1\)](#)
- I4** [S. 17](#) in force at 19.8.2022 by [S.I. 2022/908](#), [reg. 2](#) (with [reg. 3](#))

#### *Membership of the Speaker’s Committee*

### 18 Membership of the Speaker’s Committee

- (1) In section 2 of PPERA (Speaker’s Committee), after subsection (2) insert—
  - “(2A) The functions of the Secretary of State for Levelling Up, Housing and Communities under subsection (2)(b) are exercisable concurrently with any Member of the House of Commons who—



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- (a) is a Minister of the Crown, and
  - (b) is appointed to membership of the Committee by the Prime Minister in order to carry out those functions concurrently with the Secretary of State for Levelling Up, Housing and Communities.”
- (2) In paragraph 2 of Schedule 2 to PPERA (the Speaker’s Committee: term of office), after sub-paragraph (1) insert—
 

“(1A) The reference in sub-paragraph (1)(c) to the member who is the Secretary of State for Levelling Up, Housing and Communities does not include any member appointed under section 2(2A).”
- (3) The following are revoked—
  - (a) the Transfer of Functions (Speaker’s Committee) Order 2021 ([S.I. 2021/310](#));
  - (b) in article 7(1) of the Transfer of Functions (Secretary of State for Levelling Up, Housing and Communities) Order 2021 ([S.I. 2021/1265](#)), sub-paragraphs (b) and (c).

#### **Commencement Information**

- I5** S. 18 not in force at Royal Assent, see [s. 67\(1\)](#)
- I6** [S. 18](#) in force at 19.8.2022 by [S.I. 2022/908](#), [reg. 2](#)

### *Criminal proceedings*

## **19 Criminal proceedings**

- (1) Paragraph 2 of Schedule 1 to PPERA (the Electoral Commission: incidental powers) is amended as follows.
- (2) The existing text becomes sub-paragraph (1).
- (3) In sub-paragraph (1)—
  - (a) after “may” insert “(subject to sub-paragraph (2))”;
  - (b) omit “(except borrow money)”.
- (4) After sub-paragraph (1) insert—
 

“(2) The Commission may not—

  - (a) borrow money;
  - (b) institute criminal proceedings in England and Wales or Northern Ireland.”

#### **Commencement Information**

- I7** S. 19 not in force at Royal Assent, see [s. 67\(1\)](#)
- I8** [S. 19](#) in force at 19.8.2022 by [S.I. 2022/908](#), [reg. 2](#)



**Changes to legislation:**

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