Elections Act 2022

2022 CHAPTER 37

PART 4

REGULATION OF EXPENDITURE

Controlled expenditure etc

26 Restriction on which third parties may incur controlled expenditure

(1) In Part 6 of PPERA, at the beginning of Chapter 2 insert—

"Which third parties may incur expenditure

89A Restriction on which third parties may incur controlled expenditure

(1) No amount of controlled expenditure may be incurred by or on behalf of a third party during a reserved regulated period unless the third party—
   (a) falls within any paragraph of section 88(2) (third parties eligible to give notification), or
   (b) is an unincorporated association with the requisite UK connection.

(2) Subsection (1) does not apply to any expenses incurred by or on behalf of a third party during a reserved regulated period which do not in total exceed £700.

(3) Subsections (4) and (5) apply where expenses are incurred by or on behalf of a third party in contravention of subsection (1).

(4) If the third party is not an individual—
   (a) any person who authorised the expenses to be incurred by or on behalf of the third party is guilty of an offence if the person knew or ought reasonably to have known that the expenses would be incurred in contravention of subsection (1), and

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(b) the third party is also guilty of an offence.

(5) If the third party is an individual, the individual is guilty of an offence if they knew or ought reasonably to have known that the expenses would be incurred in contravention of subsection (1).

(6) An unincorporated association has "the requisite UK connection" if it consists of two or more persons both or all of whom are registered in a register of parliamentary electors in pursuance of a declaration made under and in accordance with section 1C of the Representation of the People Act 1985 (overseas elector's declaration).

(7) In this section—

"register of parliamentary electors" means a register of parliamentary electors maintained under section 9 of the Representation of the People Act 1983;

"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 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly)."

(2) In Schedule 20 to PPERA (penalties), at the appropriate place in the table insert—

"Section 89A(4) or (5) (incurring controlled expenditure in contravention of section 89A(1))	On summary conviction in England and Wales: fine On summary conviction in Scotland or Northern Ireland: statutory maximum On indictment: fine".

(3) The amendments made by subsections (1) and (2) have effect only in relation to reserved regulated periods beginning on or after the day on which this section comes fully into force.

(4) In subsection (3), "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 to PPERA (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly).

Commencement Information

I1 S. 26 not in force at Royal Assent, see **s. 67(1)**

I2 S. 26 in force at 24.11.2022 by S.I. 2022/1226, **reg. 2(c)**

27 Third parties capable of giving notification for purposes of Part 6 of PPERA

(1) In section 88 of PPERA (third parties recognised for the purposes of Part 6), after subsection (8) insert—

"(9) The Secretary of State may by order amend subsection (2), as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly), by—

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(a) adding a description of third party to the list in that subsection,
(b) removing a description of third party from that list, or
(c) varying the description of a third party in that list.

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

(2) In section 156 of PPERA (orders and regulations), in subsection (4), after paragraph (dd) insert—

"(de) section 88(9),".

Commencement Information

I3 S. 27 not in force at Royal Assent, see **s. 67(1)**

I4 S. 27 in force at 24.11.2022 by S.I. 2022/1226, **reg. 2(c)**

28 Recognised third parties: changes to existing limits etc

(1) In section 85 of PPERA (controlled expenditure by third parties), before subsection (6) insert—

"(5B) "The lower-tier expenditure limits", in relation to controlled expenditure incurred by or on behalf of a recognised third party, means the limits specified in section 94(5) (limits on controlled expenditure incurred in a part of the UK); and a recognised third party is subject to those limits if the notification given by the third party under section 88(1), as it has effect for the time being, contains a statement within section 88(3D)."

(2) Section 88 of PPERA (third parties recognised for the purposes of Part 6) is amended in accordance with subsections (3) to (6).

(3) After subsection (3C) insert—

"(3D) A notification given under subsection (1) by a third party so as to be subject to the lower-tier expenditure limits must contain a statement to that effect."

(4) In subsection (6)—

(a) in paragraph (a), after "statements" insert "within subsection (3)";
(b) in paragraph (b)—
(i) after "any statement" insert "within subsection (3)";
(ii) for "subsection (3)" substitute "that subsection".

(5) After subsection (6) insert—

"(6A) In a case where the original notification, as it has effect for the time being, contains a statement within subsection (3D), the renewal notification must either—
(a) confirm that the statement is to continue to have effect, or
(b) indicate that the statement is withdrawn."

(6) In subsection (8), for the words from "any statement" to the end substitute—

"(a) any statement within subsection (3) that is contained in the original notification, as it has effect for the time being, is replaced by some

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other statement conforming with that subsection that is contained in the notification of alteration, or

(b) any statement within subsection (3D) that is contained in the original notification, as it has effect for the time being, is withdrawn."

(7) Section 94 of PPERA (limits on controlled expenditure by third parties) is amended in accordance with subsections (8) to (10).

(8) In subsection (3)—

(a) in paragraph (a), for "either" substitute "any of the following sub-paragraphs applies—

(ai) during a regulated period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly), any controlled expenditure is incurred by or on behalf of a third party in excess of £10,000;";

(b) at the end of paragraph (a)(i), for ", or" substitute ";";

(c) for paragraph (b) substitute—

"(b) the third party—

(i) in a case within paragraph (a)(ai) or (ii), is not a recognised third party;

(ii) in a case within paragraph (a)(i), is not a recognised third party or, where the regulated period is one in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10, is a recognised third party but is subject to the lower-tier expenditure limits."

(9) After subsection (4) insert—

"(4ZA) In its application to a case within subsection (3)(a)(i) where the third party is a recognised third party that is subject to the lower-tier expenditure limits, the reference in subsection (4)(a)(i) to any person who authorised the expenditure to be incurred is to be read as a reference to the responsible person."

(10) After subsection (10) insert—

"(10A) Where an offence under subsection (4) is committed in the case of a recognised third party that is subject to the lower-tier expenditure limits—

(a) the third party ceases to be subject to those limits at the time the offence is committed, and

(b) this Part then applies to the third party as if the notification under section 88(1) which is for the time being in force in relation to the third party did not contain a statement under section 88(3D)."

(11) In section 94A of PPERA (arrangements between third parties notified to the Commission), after subsection (5) insert—

"(5A) A recognised third party that is subject to the lower-tier expenditure limits may not send a notice under subsection (1)."

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(12) The following subsection: "( ) This section does not apply in relation to a recognised third party that is subject to the lower-tier expenditure limits."—

(a) is inserted after the provision of PPERA mentioned in the left-hand column of the following table, and

(b) is inserted after that provision with the applicable number mentioned in the right-column of the table.

Provision of PPERA	*Number of inserted subsection*
Section 91(4) (restriction on payments in respect of controlled expenditure)	(4A)
Section 92(7) (restriction on making claims in respect of controlled expenditure)	(7A)
Section 95A(10) (quarterly donation reports)	(10A)
Section 95B(10) (weekly donation reports during general election periods)	(10A)
Section 95D(7) (forfeiture)	(8)
Section 96(8) (returns as to controlled expenditure)	(9)

(13) The amendments made by the preceding provisions of this section have effect only in relation to reserved regulated periods beginning on or after the day on which this section comes fully into force.

(14) In subsection (13), "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 to PPERA (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly).

Commencement Information

I5 S. 28 not in force at Royal Assent, see **s. 67(1)**

I6 S. 28 in force at 24.11.2022 by S.I. 2022/1226, **reg. 2(c)**

29 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—

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(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.

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(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."

(2) In section 156 of PPERA (orders and regulations), in subsection (3), before paragraph (a) insert—

"(za) an order under section 100B(8);"

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(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)."

Commencement Information

I7 S. 29 not in force at Royal Assent, see **s. 67(1)**

I8 S. 29 in force at 24.11.2022 by S.I. 2022/1226, **reg. 2(c)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– Sch. 9 para. 35(ea) inserted by 2023 c. 47 s. 3(3)