



# Elections Act 2022

## 2022 CHAPTER 37

### PART 6

#### INFORMATION TO BE INCLUDED WITH ELECTRONIC MATERIAL

##### *Supplementary*

#### 54 Guidance

- (1) The Commission must prepare guidance about—
  - (a) the operation of this Part, and
  - (b) the exercise of functions by the Commission or a constable in relation to a breach or suspected breach of this Part.
- (2) The Commission or a constable must have regard to guidance issued under this section in exercising those functions.
- (3) Once the Commission has prepared draft guidance under this section, it must submit it to the Secretary of State for approval by the Secretary of State.
- (4) The Secretary of State may approve draft guidance either without modifications or with such modifications as the Secretary of State may determine.
- (5) Once the Secretary of State has approved draft guidance, the Secretary of State must lay before each House of Parliament a copy of the draft, whether—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 (4).
- (6) If the draft guidance incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of the Secretary of State's reasons for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.
- (7) If, within the 40-day period, either House resolves not to approve the draft guidance, the Secretary of State must take no further steps in relation to the draft guidance.

*Status: This version of this cross heading contains provisions that are prospective.*

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- (8) Subsection (7) does not prevent new draft guidance from being laid before Parliament.
- (9) If no resolution of the kind mentioned in subsection (7) is made within the 40-day period—
- (a) the Secretary of State must issue the guidance in the form of the draft laid before Parliament,
  - (b) the Commission must arrange for the guidance to be published in such manner as it considers appropriate, and
  - (c) the guidance comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (10) The Commission—
- (a) may from time to time revise guidance under this section, and
  - (b) must revise guidance under this section if directed to do so by the Secretary of State.
- (11) References in this section (other than in subsection (1)) to guidance or draft guidance include revised guidance or draft revised guidance.
- (12) In this section “the 40-day period”, in relation to draft guidance, 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.

#### Commencement Information

- I1** S. 54 not in force at Royal Assent, see [s. 67\(1\)](#)  
**I2** [S. 54](#) in force at 19.5.2023 by [S.I. 2023/552](#), [reg. 2](#)

PROSPECTIVE

## 55 Information in Commission’s annual report

- (1) Each report by the Commission under paragraph 20 of Schedule 1 to PPERA must contain information about—
- (a) the convictions reported to the Commission under section 48(7), 49(6) or 51(5) during the year in question,
  - (b) the orders made under section 49 (orders to take down electronic material) during that year,
  - (c) the use made by the Commission of its powers under section 51 (notice to take down electronic material) during that year, and
  - (d) the use made by the Commission of its powers under [Schedule 12](#) (supply of information) during that year.
- (2) The report must, in particular, specify—
- (a) the cases in which a notice was given under section 51(2),

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- (b) the cases in which a notice was given under paragraph 1 of [Schedule 12](#), and
  - (c) the cases in which an order under paragraph 2 or 3 of that Schedule was applied for or made.
- (3) This section does not require the Commission to include in a report any information that, in its opinion, it would be inappropriate to include on the ground that to do so—
- (a) would or might be unlawful, or
  - (b) might adversely affect any current investigation or proceedings.

#### Commencement Information

- I3** S. 55 not in force at Royal Assent, see [s. 67\(1\)](#)

#### PROSPECTIVE

### 56 Notices

- (1) A notice which may be given to a person under this Part by the Commission or a constable may be given—
- (a) by delivering it to the person,
  - (b) by leaving it at the person's proper address,
  - (c) by sending it by post to the person at that address, or
  - (d) by sending it to the person by electronic means.
- (2) A notice to a body corporate may be given to an officer of that body.
- (3) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.
- (4) A notice to an unincorporated association (other than a partnership) may be given to a member of the governing body of the association.
- (5) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is the person's last known address (whether of the person's residence or of a place where the person carries on business or is employed) and also—
- (a) in the case of a body corporate or an officer of the body, the address of the body's registered or principal office in the United Kingdom;
  - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership in the United Kingdom;
  - (c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, the principal office of the association in the United Kingdom.
- (6) If a person has specified an address in the United Kingdom, other than the person's proper address within the meaning of subsection (5), as the one at which the person or someone on the person's behalf will accept notices of the same description as a notice under this Part, that address is also treated for the purposes of this section and section 7 of the Interpretation Act 1978 as the person's proper address.

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- (7) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given on the working day immediately following the day on which it was sent.
- (8) In this section—
- “officer” in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;
- “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

#### Commencement Information

**I4** S. 56 not in force at Royal Assent, see [s. 67\(1\)](#)

PROSPECTIVE

## 57 Proceedings for an offence under this Part

- (1) Summary proceedings for an offence under this Part may, without prejudice to any jurisdiction exercisable apart from this subsection, be taken against any body, including an unincorporated association, at any place at which it has a place of business, and against an individual at any place at which the individual is for the time being.
- (2) Subsections (3) to (7) apply to—
- (a) an offence within section 50(2)(a) or (b) (offences in relation to which the Commission may exercise enforcement functions), and
  - (b) an offence under section 49(4) or 51(3) (order or notice to take down electronic material).
- (3) Despite anything in section 127(1) of the Magistrates’ Courts Act 1980, if the offence is triable by a magistrates’ court in England and Wales, any information relating to the offence may be so tried if it is laid at any time within three years after the commission of the offence and within six months after the relevant date.
- (4) Despite anything in section 136 of the Criminal Procedure (Scotland) Act 1995, summary proceedings for the offence may be commenced in Scotland at any time within three years after the commission of the offence and within six months after the relevant date; and subsection (3) of that section applies for the purposes of this subsection as it applies for the purposes of that section.
- (5) Despite anything in Article 19(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#)), if the offence is triable by a court of summary jurisdiction in Northern Ireland, a complaint relating to the offence may be so tried if it is made at any time within three years after the commission of the offence and within six months after the relevant date.
- (6) In subsections (3) to (5) “the relevant date” means the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the prosecutor’s knowledge.

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- (7) For the purposes of subsection (6) a certificate of any prosecutor as to the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact.
- (8) Subsections (9) to (15) apply to an offence under this Part other than—
  - (a) an offence within section 50(2)(a) or (b), or
  - (b) an offence under section 49(4) or 51(3).
- (9) Despite anything in section 127(1) of the Magistrates' Courts Act 1980, if the offence is triable by a magistrates' court in England and Wales, any information relating to the offence may be so tried if it is laid at any time within one year after the commission of the offence.
- (10) Despite anything in section 136 of the Criminal Procedure (Scotland) Act 1995, summary proceedings for the offence may be commenced in Scotland at any time within one year after the commission of the offence; and subsection (3) of that section applies for the purposes of this subsection as it applies for the purposes of that section.
- (11) Despite anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, if the offence is triable by a court of summary jurisdiction in Northern Ireland, a complaint relating to the offence may be so tried if it is made at any time within one year after the commission of the offence.
- (12) A magistrates' court in England and Wales may act under subsection (13) if satisfied on an application by a constable or a Crown prosecutor—
  - (a) that there are exceptional circumstances which justify the granting of the application, and
  - (b) that there has been no undue delay in the investigation of the offence to which the application relates.
- (13) The magistrates' court may extend the time within which proceedings must be commenced in pursuance of subsection (9) to not more than two years after the commission of the offence.
- (14) An application under subsection (12) must be made not more than one year after the commission of the offence.
- (15) Any party to an application under subsection (12) who is aggrieved by the refusal of the magistrates' court to act under subsection (13) may appeal to the Crown Court.

#### Commencement Information

**I5** S. 57 not in force at Royal Assent, see s. 67(1)

PROSPECTIVE

## 58 Offences committed by bodies corporate

- (1) Where an offence under this Part committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

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- (a) a person who is a director, manager, secretary or other similar officer of the body corporate, or
  - (b) a person who was purporting to act in any such capacity,
- that person, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

#### Commencement Information

**I6** S. 58 not in force at Royal Assent, see [s. 67\(1\)](#)

PROSPECTIVE

### 59 Offences committed by unincorporated associations etc

- (1) Proceedings for an offence alleged to have been committed under this Part by an unincorporated association are to be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if the association were a corporation.
- (2) A fine imposed on an unincorporated association on its conviction of an offence under this Part must be paid out of the funds of the association.
- (3) Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of offence against a corporation) has effect in a case in which an unincorporated association is charged in England or Wales with an offence under this Part in the same way as it has effect in the case of a corporation so charged.
- (4) Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 ([S.I. 1981/1675 \(N.I. 26\)](#)) (procedure on charge of offence against a corporation) has effect in a case in which an unincorporated association is charged in Northern Ireland with an offence under this Part in the same way as it has effect in the case of a corporation so charged.
- (5) Where a partnership is guilty of an offence under this Part and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner, the partner as well as the partnership is guilty of that offence and liable to be proceeded against and punished accordingly.
- (6) Where any other unincorporated association is guilty of an offence under this Part and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
  - (a) any officer of the association, or
  - (b) any member of the committee or other similar governing body of the association,
 the officer or member, as well as the association, is guilty of that offence and liable to be proceeded against and punished accordingly.

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#### Commencement Information

**17** S. 59 not in force at Royal Assent, see [s. 67\(1\)](#)

PROSPECTIVE

### 60 Regulations under this Part

- (1) The Secretary of State may make regulations under this Part only—
  - (a) where the regulations give effect to a recommendation of the Commission, or
  - (b) after consultation with the Commission.
- (2) Regulations under this Part—
  - (a) are to be made by statutory instrument;
  - (b) may make consequential, incidental, supplementary, transitional, transitory or saving provision.
- (3) A statutory instrument containing regulations under this Part may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) This section does not apply to regulations under section 54(9)(c).

#### Commencement Information

**18** S. 60 not in force at Royal Assent, see [s. 67\(1\)](#)

PROSPECTIVE

### 61 Meaning of “the Commission”

In this Part “the Commission” means the Electoral Commission.

#### Commencement Information

**19** S. 61 not in force at Royal Assent, see [s. 67\(1\)](#)

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