



# Elections Act 2022

## 2022 CHAPTER 37

### PART 4

#### REGULATION OF EXPENDITURE

##### *Controlled expenditure etc*

#### **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—
  - (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);

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- (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.
- (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.

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- (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);”
  - (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).”

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#### Commencement Information

**II** S. 29 not in force at Royal Assent, see [s. 67\(1\)](#)

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**I2** [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. 8 para. 12(4)(da) inserted by [2023 c. 55 Sch. 4 para. 230](#)
- Sch. 9 para. 35(ea) inserted by [2023 c. 47 s. 3\(3\)](#)