

Referendums (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

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Amendments in debating order

Power to provide for referendums

Adam Tomkins

76 In section 1, page 1, line 7, at end insert—

<() Subsection (1) does not apply to a referendum on a constitutional matter.>

Adam Tomkins

77 In section 1, page 1, line 7, at end insert—

<() Subsection (1) does not apply to a referendum on a moral issue.>

Adam Tomkins

Supported by: Michael Russell

1 Leave out section 1 and insert—

<Referendums to which this Act applies

(1) This Act applies to any referendum held throughout Scotland.

(2) In this Act—

(a) references to “the referendum” mean any referendum held—

(i) in pursuance of any provision made by or under an Act of the Scottish Parliament,

(ii) on one or more questions specified in or in accordance with any such provision,

(b) “question” includes proposition (and “answer” accordingly includes response).>

Adam Tomkins

2 In section 2, page 2, leave out line 1

Michael Russell

3 Leave out section 2

Adam Tomkins

78 In section 3, page 2, line 7, leave out <(including this Act)>

Michael Russell

18 In schedule 1, page 32, leave out line 15

Michael Russell

23 In section 7, page 3, line 32, leave out from <regulations> to <referendum> and insert <Act of the Scottish Parliament referred to in section (*Referendums to which this Act applies*)(2) or regulations made under that Act>

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Michael Russell

- 29 In schedule 3, page 90, line 24, leave out from <regulations> to <referendum> in line 25 and insert <Act of the Scottish Parliament referred to in section (*Referendums to which this Act applies*)(2) or regulations made under that Act>

Michael Russell

- 42 In schedule 3, page 109, line 29, leave out from <draft> to end of line 31 and insert <Act of the Scottish Parliament referred to in section (*Referendums to which this Act applies*)(2) is passed or regulations made under that Act are laid before the Scottish Parliament.>

Michael Russell

- 49 In schedule 3, page 121, line 20, leave out from <draft> to end of line 22 and insert <Act of the Scottish Parliament referred to in section (*Referendums to which this Act applies*)(2) is passed or regulations made under that Act are laid before the Scottish Parliament.>

Michael Russell

- 61 In schedule 5, page 146, line 15, leave out <regulations under section 1(1) come> and insert <this paragraph comes>

Referendum questions

Adam Tomkins

- 79 In section 3, page 3, line 1, leave out <This section does not apply in relation to a question or statement> and insert <For the avoidance of doubt, this section applies in relation to a question or statement even>

Michael Russell

- 90 In section 3, page 3, line 2, after <have> insert <, in the validity period>

Michael Russell

- 91 In section 3, page 3, line 3, leave out <previously>

Michael Russell

- 92 In section 3, page 3, line 5, at end insert—
- <(8) In subsection (7), the “validity period” means—
 - (a) the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls, or
 - (b) if subsection (9) applies, the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls and the preceding session.
 - (9) This subsection applies if the Scottish Parliament, on a motion by a member of the Scottish Government, resolves that the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
 - (10) Before lodging a motion referred to in subsection (9), the Scottish Ministers must consult the Electoral Commission.

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- (11) At the same time as lodging a motion referred to in subsection (9), the Scottish Ministers must lay before the Scottish Parliament a document—
- (a) giving details of the consultation carried out under subsection (10), and
 - (b) setting out the reasons why they consider the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
- (12) In subsection (8), for the purpose of reckoning the number of sessions in a period, any extraordinary general election in that period is to be disregarded unless it is one which results in section 3(3) of the Scotland Act 1998 having effect.>

Length of referendum period

Adam Tomkins

4 After section 3, insert—

<Minimum regulated period

- (1) Subsection (2) applies where provision is made by or under an Act of the Scottish Parliament (including this Act) for the holding of a referendum throughout Scotland.
- (2) The “referendum period” is to be a period of a minimum of 10 weeks where referendum activity and conduct is regulated.>

Jackie Baillie

4A As an amendment to amendment 4, line 5, leave out <10> and insert <12>

Michael Russell

75 In schedule 7, page 162, line 22, leave out <set out in regulations under section 1(1)> and insert <of 10 weeks ending with the date of the referendum>

Validity of referendum result: turnout

James Kelly

93 After section 3, insert—

<Referendum result

The result of the referendum is valid only if the number of votes cast represents a minimum of 50% of the total number of persons entitled to vote in the referendum.>

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Citizen initiative referendum

Neil Findlay

94 After section 3, insert—

<Citizen initiative referendum

- (1) A person entitled to vote (within the meaning of section 4) may petition the Electoral Commission for a referendum to be held on one or more questions.
- (2) Where the Electoral Commission receive a petition under subsection (1), they must as soon as reasonably practicable—
 - (a) make the petition available by electronic means (such as for example by means of the internet), and
 - (b) promote the petition in such manner as they consider sufficient to ensure that the petition is brought to the attention of all those who would be entitled to vote in a referendum.
- (3) Where, within such period of time as may be specified by the Commission, a petition under subsection (1) receives 300,000 or more signatures, a referendum is to be held.
- (4) A referendum held under this section is advisory.
- (5) It is for the Electoral Commission to specify the wording of the question or questions in a referendum held under this section.
- (6) A referendum held under this section is to be conducted in accordance with this Act, subject to such modifications (if any) as may be specified in regulations made by the Scottish Ministers.
- (7) Regulations under subsection (6) are subject to the affirmative procedure.>

Jackie Baillie

95 After section 3, insert—

<Minimum regulated period

Where a referendum is to be held under section (*Citizen initiative referendum*), the referendum period is to be a minimum of 14 weeks.>

Referendum administration: general

Michael Russell

5 In schedule 1, page 27, line 9, at end insert—

<(zi) of a disability suffered before that date, in circumstances where the disability means that the application could not reasonably have been made before that date,>

Michael Russell

6 In schedule 1, page 27, line 24, at beginning insert—

<(A1) Sub-paragraphs (1A) to (5) apply in relation to an application to vote by proxy made as described in paragraph 7(9)(a)(zi).>

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Michael Russell

- 7 In schedule 1, page 27, line 25, at end insert—
<(1A) The application must contain a statement of the reasons why the applicant did not apply before the cut-off date.>

Michael Russell

- 8 In schedule 1, page 29, line 10, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 9 In schedule 1, page 29, line 30, after <(1)> insert <(b)>

Michael Russell

- 10 In schedule 1, page 30, line 25, after <13A(2)> insert <, 13AB(3)>

Michael Russell

- 11 In schedule 1, page 31, line 13, at end insert—
<() Before giving a direction to a registration officer, the Chief Counting Officer must consult the Electoral Commission.>

Michael Russell

- 12 In schedule 1, page 31, line 17, leave out <appointed by> and insert <approved by the council which appointed>

Michael Russell

- 13 In schedule 1, page 31, line 17, leave out <for the purposes of this Act>

Michael Russell

- 14 In schedule 1, page 31, leave out line 20

Michael Russell

- 15 In schedule 1, page 31, line 31, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 16 In schedule 1, page 32, line 9, at end insert—
<(3A) Section 13AB of the 1983 Act applies in relation to the referendum as it applies in relation to an election to which that section applies, but as if—
(a) the reference in subsection (1)(b) to the relevant election area were a reference to the area for which the registration officer acts,
(b) the reference in subsection (2) to the issuing of a notice in the prescribed manner were a reference to the issuing of the notice in such manner and form as the registration officer may determine,
(c) for subsections (4) to (6) there were substituted—

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- “(4) There are two interim publication dates, which are to be determined by the registration officer.
- (5) The second interim publication date must be before the appropriate publication date.
- (6) Before determining the interim publication dates, the registration officer must consult the counting officer.”,
- (d) the reference in subsection (5) to the appropriate publication date were a reference to the fifth day before the date of the referendum,
- (e) in subsection (7)—
 - (i) in paragraph (a), “or 13BC(3) or (6)” were omitted,
 - (ii) paragraph (b)(ii) were omitted,
- (f) subsections (7A), (8), (9) and (10) were omitted.>

Michael Russell

- 17 In schedule 1, page 32, line 10, leave out <or (3)(a)> and insert <, (3)(a) or (3A)(d)>

Michael Russell

- 19 In schedule 1, page 32, line 24, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 20 In schedule 1, page 45, line 4, after <Act,> insert—
<() section 13AB(2) of that Act,>

Michael Russell

- 21 In schedule 1, page 45, line 35, after <Act,> insert—
<() section 13AB(2) of that Act,>

Michael Russell

- 22 In schedule 1, page 46, line 30, after <Act,> insert—
<() section 13AB(2) of that Act,>

Michael Russell

- 24 In section 9, page 5, line 31, at end insert—
<() Before giving a direction to a counting officer, the Chief Counting Officer must consult the Electoral Commission.>

Michael Russell

- 25 In schedule 2, page 51, line 20, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

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Michael Russell

- 26 In schedule 2, page 56, line 24, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 43 In schedule 3, page 110, line 24, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 50 In schedule 3, page 122, line 21, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 64 In section 19, page 10, line 36, leave out <or Christmas Day> and insert <, Christmas Day or Easter Monday>

Michael Russell

- 65 Leave out section 24 and insert—

<Code of practice on attendance of observers

Section 6G of the 2000 Act (code of practice on attendance of observers at local government elections in Scotland) applies in relation to the referendum as it applies in relation to local government elections in Scotland (and accordingly the code prepared under that section applies in relation to the referendum), but as if—

- (a) references to accredited observers were to be construed in accordance with section 21 of this Act,
- (b) references to accredited organisations and a nominated member were to be construed in accordance with section 22 of this Act,
- (c) references to representatives of the Commission were to be construed in accordance with section 20(4) of this Act,
- (d) the reference in subsection (2)(a) to section 6C(1) and 6D(1) of the 2000 Act were a reference to section 21(1) and 22(1) of this Act,
- (e) the reference in subsection (2)(c) to section 6E of the 2000 Act were a reference to section 23 of this Act,
- (f) the reference in subsection (2)(f) to sections 6A, 6B, 6C and 6D of the 2000 Act were a reference to sections 20, 21 and 22 of this Act,
- (g) in subsection (7)—
 - (i) the reference to section 6A, 6B, 6C, 6D or 6E of the 2000 Act were a reference to sections 20, 21, 22 and 23 of this Act,
 - (ii) the reference to section 6E of the 2000 Act were a reference to section 23 of this Act.>

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Day and time of poll

Adam Tomkins

80 In schedule 2, page 51, line 38, at end insert—

<Date of the referendum

The day on which the poll is to be held must not be the same day as any other election or poll is scheduled to be held throughout Scotland.>

James Kelly

96 In schedule 2, page 51, line 38, at end insert—

<Day of polling

The day of polling is to be a Saturday.>

James Kelly

97 In schedule 2, page 52, line 2, leave out <7am> and insert <6am>

James Kelly

98 In schedule 2, page 52, line 2, leave out <10pm> and insert <11pm>

Designated organisations: number, process for application and funding

Alex Rowley

99 In schedule 3, page 80, line 18, leave out <permitted participant> and insert <or more (but no more than three) permitted participants>

Alex Rowley

100 In schedule 3, page 81, leave out lines 1 to 8 and insert—

<(4) If there are no more than three applications in relation to a particular outcome in the referendum, the Commission must designate each of the applicants unless they are not satisfied that each applicant adequately represents a sufficient proportion of those campaigning for that outcome.

(5) If there are more than three applications in relation to a particular outcome in the referendum, the Commission must designate whichever of the applicants together appear to them to represent to the greatest extent those campaigning for that outcome unless they are not satisfied that one or more of the applicants adequately represents a sufficient proportion of those campaigning for that outcome.

(5A) In considering for the purposes of sub-paragraphs (4) and (5) whether an applicant adequately represents a sufficient proportion of those campaigning for a particular outcome in the referendum, the Commission must take into account the number of officially recognised supporters an applicant has.>

Jackie Baillie

101 In schedule 3, page 81, line 10, leave out <28> and insert <56>

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James Kelly

102 In schedule 3, page 81, line 13, at end insert—

<Assistance available to designated organisations

- (1) Where the Commission have made any designation under this Part, the Commission must make a grant of £100,000 to each designated organisation.
- (2) A grant under this paragraph may be made subject to such conditions as the Commission consider appropriate.>

Alex Rowley

103 In schedule 3, page 90, line 7, at end insert—

<(1A) For the purposes of sub-paragraph (1)(a), where more than one permitted participant is a designated organisation in relation to a particular outcome in the referendum, the expenses incurred by each must not exceed the amount calculated by multiplying £1,500,000 by the designated organisation's relevant percentage.

(1B) In sub-paragraph (1A), a designated organisation's relevant percentage is the percentage that the number of the organisation's officially recognised supporters is of the total number of officially recognised supporters of all designated organisations in relation to that outcome in the referendum.>

Referendum expenses: exceptions

Michael Russell

27 In schedule 3, page 83, line 40, at end insert—

<() reasonable expenses incurred that are reasonably attributable to individuals' disability,>

Michael Russell

28 In schedule 3, page 83, line 40, at end insert—

<() reasonable expenses incurred in providing for the protection of persons or property at rallies or other public events,>

Referendum expenses: deadline for delivery of returns to Electoral Commission

Jackie Baillie

104 In schedule 3, page 95, line 25, leave out <6> and insert <3>

Jackie Baillie

105 In schedule 3, page 95, line 28, leave out <3 months> and insert <one month>

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Offences and penalties

Michael Russell

30 In schedule 3, page 96, line 1, leave out <(5)(a) or (c)> and insert <(5)(c)>

Michael Russell

31 In schedule 3, page 96, line 3, leave out <(5)(b)> and insert <(5)(a) or (b)>

Michael Russell

37 In schedule 3, page 99, line 26, leave out from <on> to end of line 27 and insert <—
(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
(b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).>

Michael Russell

44 In schedule 3, page 110, leave out lines 37 and 38

Michael Russell

45 In schedule 3, page 110, line 39, leave out <(11)(b)> and insert <(11)>

Michael Russell

51 In schedule 3, page 122, leave out lines 34 and 35

Michael Russell

52 In schedule 3, page 122, line 36, leave out <(11)(b)> and insert <(11)>

Michael Russell

58 In schedule 4, page 130, line 36, leave out <(1) or>

Michael Russell

59 In schedule 4, page 130, line 38, after <sub-paragraph> insert <(1) or>

Michael Russell

60 In schedule 5, page 135, line 9, leave out <£10,000> and insert <£500,000>

Michael Russell

62 In section 16, page 9, line 29, leave out <(4)(b)> and insert <(4)(a) or (b)>

Michael Russell

63 In section 16, page 9, line 34, leave out subsection (8)

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Publications and restrictions

Adam Tomkins

- 81 In schedule 3, page 97, line 31, leave out <relevant> and insert <referendum>

Michael Russell

- 32 In schedule 3, page 98, line 8, leave out <on the Scottish Parliament official website> and insert <by the SPCB on the internet>

Michael Russell

- 33 In schedule 3, page 98, line 15, leave out <or any> and insert <, any>

Michael Russell

- 34 In schedule 3, page 98, line 15, after <officer> insert <or a registration officer>

Adam Tomkins

- 82 In schedule 3, page 98, leave out lines 21 and 22

Details to appear on published referendum material

Patrick Harvie

- 83 In schedule 3, page 98, line 28, after <with,> insert—
<(aa) in the case of material which is—
(i) communicated by social media, or is contained in an online social media platform, and
(ii) the social media account is controlled by, or the material communicated by means of it is published on behalf of, a person mentioned in sub-paragraph (7B),
the requirements of sub-paragraph (7A) are complied with,>

Michael Russell

- 35 In schedule 3, page 98, line 33, at end insert—
<() Sub-paragraph (1)(b) does not apply to the publication of material by an individual if—
(a) the material expresses the individual's personal opinion, and
(b) the material is published on the individual's own behalf on a non-commercial basis.>

Michael Russell

- 36 In schedule 3, page 99, line 15, leave out <unless it is not reasonably practicable to include the details>

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Patrick Harvie

84 In schedule 3, page 99, line 16, at end insert—

<(7A) In the case of material falling within sub-paragraph (1)(aa), the following details, namely—

- (a) the name and address of the promoter of the material (being the person who has control over the social media account on which the material is published),
- (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter), and
- (c) which of the categories listed in sub-paragraph (7B) the person mentioned in sub-paragraph (a) or (b) falls within.

(7B) The categories are—

- (a) a permitted participant,
- (b) a member of, or a donor to—
 - (i) a registered party or a qualifying body which is a permitted participant,
 - (ii) a designated organisation.>

Michael Russell

38 In schedule 3, page 99, line 35, at end insert—

<“address” means postal address,>

Donations and transaction reports: periods of reporting

Michael Russell

39 In schedule 3, page 109, line 24, leave out <28th> and insert <14th>

Michael Russell

40 In schedule 3, page 109, line 26, leave out <each of the two succeeding periods> and insert <the succeeding period>

Michael Russell

41 In schedule 3, page 109, line 27, leave out <second of the periods> and insert <succeeding 4 week period>

Michael Russell

46 In schedule 3, page 121, line 15, leave out <28th> and insert <14th>

Michael Russell

47 In schedule 3, page 121, line 17, leave out <each of the two succeeding periods> and insert <the succeeding period>

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Michael Russell

- 48 In schedule 3, page 121, line 18, leave out <second of the periods> and insert <succeeding 4 week period

Investigatory powers of Electoral Commission

Michael Russell

- 53 In schedule 4, page 125, leave out lines 5 and 6

Michael Russell

- 54 In schedule 4, page 125, line 9, leave out <to which this paragraph applies> and insert <that is a permitted participant>

Michael Russell

- 55 In schedule 4, page 125, line 11, leave out <to whom this paragraph applies> and insert <who is a permitted participant>

Michael Russell

- 56 In schedule 4, page 125, line 11, at end insert—
- <(c) is a person who has made a declaration as a qualifying individual under paragraph 2 of schedule 3 and the Commission have reasonable grounds for believing that the individual is not a qualifying individual,
 - (d) is a person who has made a declaration as a qualifying body under paragraph 2 of schedule 3 and the Commission have reasonable grounds for believing that the body is not a qualifying body,
 - (e) is an individual or body that is not a permitted participant and the Commission have reasonable grounds for believing that the individual or body is incurring referendum expenses,
 - (f) is an individual or body that the Commission have reasonable grounds for believing has received a relevant donation,
 - (g) is an individual or body that the Commission have reasonable grounds for believing has entered into a regulated transaction,
 - (h) is an individual or body that the Commission have reasonable grounds for believing is providing goods, services or facilities to a permitted participant or a person mentioned in paragraph (e).>

Michael Russell

- 57 In schedule 4, page 125, line 21, at end insert—
- <() In the case of a person mentioned in sub-paragraph (2)(c) or (as the case may be) (d), a disclosure notice may also require the person to whom it is given to provide the Commission, or a person authorised by the Commission, with any information or explanation reasonably required by the Commission for the purposes of determining whether the person is a qualifying individual (within the meaning of paragraph 2(3) of schedule 3) or (as the case may be) a qualifying body (within the meaning of paragraph 2(4) of that schedule).

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- () In the case of a person mentioned in sub-paragraph (2)(f) or (as the case may be) (g), a disclosure notice may also require the person to whom it is given to provide the Commission, or a person authorised by the Commission, with any information or explanation reasonably required by the Commission for the purposes of carrying out their functions under Part 5 or (as the case may be) 6 of schedule 3.>

Information for voters and encouragement to participate

James Kelly

106 In section 25, page 14, line 22, at end insert—

- <() Each Scottish public authority must take such steps as it considers appropriate to—
- (a) encourage people entitled to vote in the referendum to register to vote,
 - (b) promote public awareness and understanding in Scotland about—
 - (i) registering to vote,
 - (ii) the manner of voting, including how and when to vote, and
 - (iii) any such other matter about voting in the referendum as it considers appropriate.>

Gordon MacDonald

66 In section 28, page 15, line 13, at end insert—

- <() A registration officer must take whatever steps the registration officer considers appropriate to encourage participation in the referendum in the area for which the officer acts.>

Duty to follow Electoral Commission advice

James Kelly

107 In section 27, page 15, line 5, at end insert—

- <() If the Scottish Ministers ask the Electoral Commission for advice as described in subsection (1), the Scottish Ministers must act in accordance with that advice in discharging their duties under this Act.>

Report on conduct of referendum

James Kelly

108 In section 29, page 15, line 17, at end insert—

- <() In preparing the report, the Electoral Commission must consult with the Commission for Equality and Human Rights in relation to the Commission's Scottish functions.>

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James Kelly

109 In section 29, page 15, line 20, at end insert—

<() any representation made by the Commission for Equality and Human Rights.>

Reimbursement of Electoral Commission's costs

Angela Constance

67 In section 30, page 15, line 30, after <expenditure> insert <properly>

Angela Constance

68 In section 30, page 15, line 32, at end insert—

<(1A) Subsection (1) does not require the SPCB to reimburse any expenditure which exceeds or is otherwise not covered by an estimate or, as the case may be, a revised estimate approved under section 31.

(1B) However, the SPCB may reimburse that expenditure.>

Angela Constance

69 In section 30, page 15, line 35, after <(1)> insert <or (1B)>

Offence of making false campaign statements

Patrick Harvie

85 In schedule 6, page 156, line 38, at end insert—

<*False campaign statements*

11A(1) A person (“A”) who—

(a) during the referendum period,

(b) for the purpose of affecting the number of votes cast in favour of an answer to the referendum question,

makes or publishes any false statement of fact in relation to the matters listed in sub-paragraph (2) commits the offence of making a false campaign statement.

(2) The matters are—

(a) the conduct of the poll (including in particular, but not limited to, the date of the poll, who is entitled to vote, registration for voting, the manner of voting and the manner of counting of votes),

(b) matters connected to the question on which the referendum is being held,

(c) the consequences of a particular outcome to the referendum.

(3) Sub-paragraph (1) applies regardless of whether a statement is made by A directly or by another person on A's behalf.

(4) A person commits a corrupt practice if the person commits the offence of making a false campaign statement.

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- (5) Where a person is charged with an offence under sub-paragraph (1), it is a defence for the person to show that the person had reasonable grounds for believing, and did believe, the statement to be true.>

Patrick Harvie

- 86 In schedule 6, page 158, line 31, at beginning insert <Subject to sub-paragraph (2),>

Patrick Harvie

- 87 In schedule 6, page 158, line 39, at end insert—

- <(2) Where a person who commits the corrupt practice of making a false campaign statement under paragraph 11A is, or is a relevant individual (within the meaning given by section 36(3)) in relation to—
- (a) a permitted participant,
 - (b) a designated organisation,
- sub-paragraph (3) applies.
- (3) Where this sub-paragraph applies, a person is liable on conviction on indictment to imprisonment for a term not exceeding 4 years or to a fine (or both).>

Patrick Harvie

- 88 After section 39, insert—

<Challenge to validity of referendum result

- (1) A person who was entitled to vote in the referendum may petition the Court of Session to declare the result of the referendum not to be valid.
- (2) A petition under subsection (1)—
 - (a) must be brought before the expiry of the period of three months beginning with the day of the poll,
 - (b) is to be made in such manner as may be prescribed by Act of Sederunt.
- (3) The Court may admit a petition under subsection (1) only if it appears to the Court that—
 - (a) a sufficient number of persons have been convicted of, or charged with, the corrupt practice of making a false campaign statement under paragraph 11A of schedule 6, and
 - (b) the nature of the offences those persons have been convicted of or charged with, means that a question arises as to whether the integrity of the referendum result has been undermined by false campaign statements.
- (4) Where the Court declares the result of the referendum not to be valid, the Court may make such order as appears to it to be appropriate in the circumstances.
- (5) Without prejudice to the generality of subsection (4), an order under that subsection may, in particular, prohibit the Scottish Ministers from—
 - (a) taking any action to implement the result of the referendum,
 - (b) taking any such action until such conditions as the Court considers appropriate are complied with,

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- (c) taking any such action until a further referendum on the same question has been conducted.
- (6) In subsection (5), the reference to not taking any action—
 - (a) prohibits, in particular, the Scottish Ministers from taking any action that may be regarded as final or irreversible (such as, but not limited to, the concluding of a binding agreement or treaty),
 - (b) does not prevent the Scottish Ministers from otherwise considering, and preparing for, implementing the result.>

Patrick Harvie

89 After section 39, insert—

<Implementation of referendum result

Implementation of referendum result

- (1) The Scottish Ministers must not take any action to implement the result of the referendum before the end of the relevant period.
- (2) In subsection (1), the reference to not taking any action—
 - (a) prohibits, in particular, the Scottish Ministers from taking any action that may be regarded as final or irreversible (such as, but not limited to, the concluding of a binding agreement or treaty),
 - (b) does not prevent the Scottish Ministers from otherwise considering, and preparing for, implementing the result.
- (3) In subsection (1), “the relevant period” means whichever is the later of—
 - (a) three months after the day of the poll,
 - (b) the conclusion of any proceedings under section (*Challenge to validity of referendum result*).>

Powers to modify Act by regulations

Adam Tomkins

70 In section 37, page 18, line 9, leave out <or expedient>

Adam Tomkins

71 In section 37, page 18, line 10, leave out <(or proposed modification)>

Michael Russell

72 In section 37, page 18, line 18, at end insert—

- <() The Scottish Ministers must consult the Electoral Commission before laying a draft Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament for approval.>

THIS IS NOT THE MARSHALLED LIST

Adam Tomkins

73 In section 37, page 18, line 18, at end insert—

- <(4) The Scottish Ministers may not lay a draft of regulations under subsection (1) before the Parliament unless—
 - (a) they have consulted such persons or bodies as they consider have a role in providing for a referendum to be held throughout Scotland,
 - (b) following that consultation, they have laid before the Scottish Parliament an explanatory document prepared in accordance with subsection (5)
- (5) The explanatory document must—
 - (a) introduce and give reasons for the provision made by the regulations,
 - (b) explain how the provision made by the regulations would improve the exercise of providing for a referendum,
 - (c) give details of—
 - (i) the consultation undertaken under subsection (4),
 - (ii) any representation received as a result of the consultation,
 - (iii) the changes (if any) made to the proposed draft regulations as a result of those representations.>

Legal proceedings

Jackie Baillie

110 In section 39, page 19, line 1, leave out <6> and insert <8>

Implementation of referendum decision

Adam Tomkins

74 After section 39, insert—

<Requirement to implement decisions made by referendum

Requirement to implement decisions made by referendum

- (1) The persons mentioned in subsection (2) must respect and, so far as is consistent with their functions, implement decisions made by the referendum.
- (2) The persons are—
 - (a) the Scottish Ministers,
 - (b) a Scottish public authority (within the meaning given by section 126(1) of the Scotland Act 1998),
 - (c) the Scottish Parliament,
 - (d) members of the Scottish Parliament.>

THIS IS NOT THE MARSHALLED LIST

Confirmatory referendum required on constitutional matters

Jackie Baillie

111 After section 39, insert—

<Requirement for confirmatory referendum

Requirement for confirmatory referendum

- (1) The Scottish Ministers may not implement the result of a referendum on a constitutional matter unless proposals based on the outcome of negotiations, plans and preparations for implementation of the result have been approved by a further referendum (referred to in this section as a “confirmatory referendum”).
- (2) A confirmatory referendum is to be conducted in accordance with this Act, subject to such modifications (if any) as may be specified in regulations made by the Scottish Ministers.
- (3) Regulations under subsection (2) are subject to the affirmative procedure.>

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