

SCOTTISH PARLIAMENT (ASSISTANCE FOR POLITICAL PARTIES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1

8. Section 1 replaces the existing section 97 of the 1998 Act with a new version. The new subsection (1) is equivalent to the existing subsection (1) except that the means by which provision (about payments to registered political parties) is made is a resolution of the Parliament rather than an Order in Council. There is no equivalent of subsections (2) and (3) of the existing section; but this does not alter the scope of what may be authorised, which includes the making of payments to political parties, some of whose MSPs hold ministerial office. (Under the 1999 Order, this is limited to parties whose MSPs do not constitute more than a fifth of the MSPs holding ministerial office in the Scottish Government.)
9. Subsection (2)(a) allows a resolution to confer functions on the SPCB. This replicates to an extent the effect of the existing section 97(1) in making it clear that the SPCB will have functions under the resolution. This will enable the SPCB to continue in its role as the body that administers the arrangements made, prior to commencement of the Act, by the 1999 Order. Paragraph (b) largely replicates existing section 97(4). Paragraph (c) replicates the provision made (in relation to the original section 97 power) by section 113(2) of the 1998 Act (under which powers to make subordinate legislation may be exercised so as to make different provision for different purposes). It also replicates provision made in the context of other provisions of the 1998 Act that enable the Parliament to make provision by resolution (see for example section 83(5) in relation to resolutions about remuneration of members). This will also enable a resolution to make different provision equivalent to that in subsections (2) and (3) of existing section 97, relating to parties some of whose MSPs hold Ministerial office.

Section 2

10. Section 2 of the Act repeals the entry relating to section 97 in a table (in Schedule 7 to the 1998 Act) which specifies, for each provision in that Act conferring a power to make subordinate legislation, the Parliamentary procedure to which that subordinate legislation is subject. As section 97 will no longer confer such a power, the entry is no longer needed.

Section 3

11. Section 3 ensures that the removal (by section 1) of the power to make an Order in Council does not affect the validity of the 1999 Order made under that power, and does not retrospectively affect things done under the 1999 Order (such as particular payments made). Subsections (2) and (3) ensure that the 1999 Order remains in force, governing the arrangements for payments to registered political parties, until such time as the Parliament first exercises its new power (under the replacement section 97) to

These notes relate to the Scottish Parliament (Assistance for Political Parties) Act 2021 (asp 7) which received Royal Assent on 22 March 2021

make new arrangements by resolution. The coming into force of that first resolution will then automatically revoke the 1999 Order.