

SCOTLAND ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Part 1: the Parliament and Its Powers

Section 3: Supplementary and transitional provision about elections

23. *Subsection (1)* inserts section 113(1A) of the 1998 Act so that that section also applies to Scottish Ministers' new powers to make subordinate legislation about the administration of Scottish Parliament elections under section 12 of the 1998 Act (provided for by section 1 of the Act). Section 113 makes supplementary provision about the scope of subordinate legislation powers in the 1998 Act.
24. *Subsections (3) and (4)* make procedural provision in relation to the subordinate legislation powers which are conferred on the Scottish Ministers and Secretary of State under section 1. An order made by the Scottish Ministers under section 12 of the 1998 Act is subject to the affirmative procedure set out in section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010. This means that it may not be made unless it has been laid in draft before, and approved by, the Scottish Parliament. Regulations made by the Secretary of State under new section 12A may not be made unless a draft of the regulations has been laid before, and approved by, both Houses of the Westminster Parliament. This is consistent with the procedure which applies to orders made by the Secretary of State under the current section 12 of the 1998 Act.
25. *Subsection (5)* amends section 7(2)(g) of the Political Parties, Elections and Referendums Act 2000 ('PPERA') so that Scottish Ministers and the Secretary of State are both required to consult the Electoral Commission before exercising the powers to make subordinate legislation in sections 12 and 12A of the 1998 Act which are conferred by section 1.
26. *Subsection (6)* amends section 8(2) of PERA so that Scottish Ministers may only exercise their powers under section 12(2)(c) in relation to the limitation of election expenses on the recommendation of the Electoral Commission. This constraint is subject to an exception in relation to provision which is made purely to take account of inflation.
27. *Subsections (7) to (12)* make transitional and savings provisions in connection with the transfer of powers in section 12 from the Secretary of State to the Scottish Ministers.