



Elections Act 2022

2022 CHAPTER 37

VALID FROM 19/05/2023

PART 6

INFORMATION TO BE INCLUDED WITH ELECTRONIC MATERIAL

VALID FROM 01/11/2023

Definitions

39 Definitions relating to electronic material and publication

- (1) The following definitions have effect for the purposes of this Part.
- (2) “Electronic material” means material in electronic form which consists of or includes—
 - (a) text or moving or still images, or
 - (b) speech or music.
- (3) In this Part “electronic material” does not include material to the extent that it is received by a person in the form of—
 - (a) a telephone call made to the person at a telephone number allocated to them in accordance with a national or international numbering plan, or
 - (b) a Short Message Service text message sent to such a telephone number.
- (4) “The promoter”, in relation to electronic material, means the person causing the material to be published.
- (5) “Publish” means make available to the public at large or any section of the public.

Status: Point in time view as at 16/01/2023. This version of this part contains provisions that are not valid for this point in time.

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- (6) The Secretary of State may by regulations amend this section so as to modify the definition of “electronic material”, “the promoter” or “publish” that for the time being has effect for the purposes of this Part.

Commencement Information

11 S. 39 not in force at Royal Assent, see [s. 67\(1\)](#)

40 Definitions relating to parties etc

- (1) The following definitions have effect for the purposes of this Part.
- (2) “Registered party” has the same meaning as in PPERA (see section 160 of that Act).
- (3) “Recognised third party” has the meaning given in section 85(5) of PPERA.
- (4) “Candidate” means a candidate at an election for a relevant elective office or a relevant Scottish elective office within the meaning of Part 5, including a person who is included in a list of candidates submitted in connection with such an election.
- (5) “Future candidate” means a person who is a future candidate at an election for a relevant elective office or a relevant Scottish elective office as defined by section 32(3).
- (6) “Elected office-holder” means a person within section 33.
- (7) “Referendum campaigner” means a person who is a permitted participant within the meaning of Part 7 of PPERA (see section 105 of that Act) in relation to a referendum to which that Part applies.
- (8) “Recall petition campaigner” means a person who is an accredited campaigner within the meaning of the Recall of MPs Act 2015 (see Part 5 of Schedule 3 to that Act) in relation to a recall petition.
- (9) “Recall petition” has the same meaning as in the Recall of MPs Act 2015 (see section 1 of that Act).
- (10) Part 5 has effect for the purposes of subsections (4) to (6) as if the definition of “relevant elective office” in section 37(1) included an office to which a person may be elected by a municipal election in the City, as defined by section 191(1) of RPA 1983 (municipal elections in the City of London).

Commencement Information

12 S. 40 not in force at Royal Assent, see [s. 67\(1\)](#)

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Requirements

41 Requirement to include information with electronic material

- (1) This section applies to electronic material which—
 - (a) meets the conditions in section 42 (paid-for electronic material), or
 - (b) meets the conditions in section 44 (other electronic material).
- (2) Electronic material to which this section applies must not be published unless, in accordance with this section—
 - (a) the information mentioned in subsection (3) is included as part of the electronic material, or
 - (b) if it is not reasonably practicable to comply with paragraph (a), the information mentioned in that subsection is displayed in text form in a location that is directly accessible from the electronic material.
- (3) That information is—
 - (a) the name and address of the promoter of the material, and
 - (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).
- (4) The Secretary of State may by regulations amend subsection (3) so as to—
 - (a) add a description of information, or
 - (b) modify or remove a description of information that is for the time being specified in that subsection.
- (5) Information is included as part of electronic material for the purposes of subsection (2)(a) only if—
 - (a) where the material consists of or includes text or moving or still images, it is displayed in text form as part of that material;
 - (b) where the material consists only of speech or music, it forms an audible part of that material.
- (6) Information that is included as part of electronic material—
 - (a) must be legible or audible (as the case may be) regardless of the device used to access the material, and
 - (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, the information would be retained as part of the material when republished.
- (7) Information that is directly accessible from electronic material—
 - (a) must be legible regardless of the device used to access the information, and
 - (b) must be such that, if the electronic material were to be republished by a person who did not alter the material, access to the information would be retained as part of the material when republished.
- (8) This section is subject to—
 - (a) section 46 (electronic material relating to more than one candidate), and
 - (b) section 47 (exceptions).

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Commencement Information

I3 S. 41 not in force at Royal Assent, see [s. 67\(1\)](#)

42 Electronic material to which section 41 applies: paid-for material

- (1) Section 41 applies to electronic material which meets the following conditions.
- (2) The first condition is that the sole or primary purpose that the electronic material can reasonably be regarded as intended to achieve is a purpose within section 43.
- (3) The second condition is that the promoter of the material, or the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.
- (4) The reference in subsection (3) to a person paying for material to be published includes the person providing any other form of consideration in return for the publication of the material.
- (5) Where the material is published on a website or mobile application of the promoter or the person on behalf of whom the material is published, the reference in subsection (3) to a person paying for material to be published does not include the person making payments related to setting up, operating or maintaining the website or mobile application.
- (6) In subsection (5) “mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets.

Commencement Information

I4 S. 42 not in force at Royal Assent, see [s. 67\(1\)](#)

43 Purposes referred to in section 42

- (1) This section sets out the purposes referred to in section 42.
- (2) The first purpose is influencing the public, or any section of the public, to give support to or withhold support from—
 - (a) a registered party,
 - (b) registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - (c) candidates or future candidates, in their capacity as such, who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates or future candidates.
- (3) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (2), it is immaterial that it does not expressly mention the name of any party, candidate or future candidate.

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- (4) The second purpose is influencing the public, or any section of the public, to give support to or withhold support from a particular candidate or particular future candidate in their capacity as such.
- (5) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (4), it is immaterial that it does not expressly mention the name of any candidate or future candidate.
- (6) The third purpose is influencing the public, or any section of the public, to give support to or withhold support from an elected office-holder in their capacity as such.
- (7) The fourth purpose is influencing the public, or any section of the public, to give support to or withhold support from elected office-holders, in their capacity as such, who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of elected office-holders.
- (8) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (6) or (7), it is immaterial that it does not expressly mention the name of any elected office-holder.
- (9) The fifth purpose is influencing the public, or any section of the public, to give support to or withhold support from—
 - (a) the holding of a referendum in the United Kingdom or any area in the United Kingdom, or
 - (b) a particular outcome of such a referendum.
- (10) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (9)(b), it is immaterial that it does not expressly mention a particular outcome of a referendum.

Commencement Information

15 S. 43 not in force at Royal Assent, see **s. 67(1)**

44 Electronic material to which section 41 applies: other electronic material

- (1) Section 41 applies to electronic material which meets the following conditions.
- (2) The first condition is that the electronic material—
 - (a) can reasonably be regarded as intended to achieve any purpose within section 45 (whether or not it can reasonably be regarded as intended to achieve any other purpose as well), or
 - (b) wholly or mainly relates to a referendum to which Part 7 of PPERA applies and is published during the referendum period (within the meaning of that Part) for that referendum.
- (3) The second condition is that the promoter of the material or the person on behalf of whom it is published is—
 - (a) a registered party,
 - (b) a recognised third party,

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- (c) a candidate or future candidate,
 - (d) an elected office-holder,
 - (e) a referendum campaigner, or
 - (f) a recall petition campaigner.
- (4) The third condition is that neither the promoter of the material, nor the person on behalf of whom the material is published, has paid for the material to be published as an advertisement.
- (5) Subsections (4) to (6) of section 42 apply in relation to subsection (4) as they apply in relation to subsection (3) of that section.

Commencement Information

16 S. 44 not in force at Royal Assent, see [s. 67\(1\)](#)

45 Purposes referred to in section 44

- (1) This section sets out the purposes referred to in section 44.
- (2) The first purpose is promoting or procuring electoral success at one or more particular relevant elections for—
- (a) a registered party,
 - (b) registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - (c) candidates or future candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates or future candidates.
- (3) For the purposes of subsection (2)—
- (a) the reference to electoral success at a particular relevant election is a reference—
 - (i) in relation to a registered party, to the return at the election of any candidate or future candidate who is standing, or is to stand, in the name of the party or is included, or is to be included, in a list of candidates submitted by the party in connection with the election, and
 - (ii) in relation to any candidate or future candidate, to their return at the election, and
 - (b) the reference to doing any of the things mentioned in that subsection includes doing so by prejudicing the electoral prospects at the election of other parties, candidates or future candidates.
- (4) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (2), it is immaterial that it does not expressly mention the name of any party, candidate or future candidate.
- (5) The second purpose is promoting or procuring the election of a particular candidate or particular future candidate at one or more particular elections.

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- (6) For the purposes of determining whether electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (5), it is immaterial that it does not expressly mention the name of any candidate or future candidate.
- (7) The third purpose is promoting or procuring the success or failure of a recall petition.
- (8) For the purposes of determining whether any electronic material can reasonably be regarded as intended to achieve the purpose mentioned in subsection (7), it is immaterial that it does not expressly mention the name of the member of the House of Commons to whom the petition relates.
- (9) In this section “relevant election” means—
- (a) a parliamentary election,
 - (b) an election to the Scottish Parliament,
 - (c) an election to Senedd Cymru,
 - (d) an election to the Northern Ireland Assembly,
 - (e) a local government election within the meaning of section 191, 203 or 204 of the Representation of the People Act 1983,
 - (f) an election under Part 1A or 2 of the Local Government Act 2000 for the return of an elected mayor,
 - (g) an election for the return of a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009,
 - (h) a local election within the meaning of the Electoral Law Act (Northern Ireland) 1962 (see section 130(1) of that Act), or
 - (i) an election of a police and crime commissioner.

Commencement Information

I7 S. 45 not in force at Royal Assent, see [s. 67\(1\)](#)

46 Electronic material relating to more than one candidate or future candidate

- (1) For the purposes of section 41 as it has effect by virtue of sections 42 and 43, electronic material to which subsection (2) applies—
- (a) is not to be regarded as being published on behalf of a candidate or future candidate merely because it can be regarded as influencing the public, or any section of the public, to give support to or withhold support from the candidate or future candidate, but
 - (b) may be regarded as being published on behalf of the party mentioned in subsection (2).
- (2) This subsection applies to electronic material which can reasonably be regarded as influencing the public, or any section of the public, to give support to or withhold support from—
- (a) two or more candidates or future candidates who are standing, or are to stand, in the name of a party, or

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- (b) two or more candidates or future candidates who are included, or are to be included, in a list of candidates submitted by the party in connection with an election.
- (3) For the purposes of section 41 as it has effect by virtue of sections 44 and 45, electronic material to which subsection (4) applies—
 - (a) is not to be regarded as being published on behalf of a candidate or future candidate merely because it can be regarded as promoting or procuring the election of a candidate or future candidate at an election, but
 - (b) may be regarded as being published on behalf of the party mentioned in subsection (4).
- (4) This subsection applies to electronic material which can reasonably be regarded as promoting or procuring the election of—
 - (a) two or more candidates or future candidates who are standing, or are to stand, in the name of a party, or
 - (b) two or more candidates or future candidates who are included, or are to be included, in a list of candidates submitted by the party in connection with an election.

Commencement Information

18 S. 46 not in force at Royal Assent, see [s. 67\(1\)](#)

47 Exceptions to section 41

- (1) Section 41 does not apply to the republication of electronic material if—
 - (a) when it was previously published—
 - (i) section 41 applied to it, and
 - (ii) it was published in compliance with that section, and
 - (b) it is not materially altered when it is republished.
- (2) In subsection (1)(b) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—
 - (a) the information within section 41(3), or
 - (b) the access to such information,
 as a result of which its previous publication complied with section 41.
- (3) Section 41 does not apply to the publication of electronic material on a website or mobile application whose primary purpose, or one of whose primary purposes, is the publication of journalism created for publication on the website or mobile application, unless the electronic material consists of an advertisement.
- (4) In subsection (3) “mobile application” means application software designed and developed for use by the general public on mobile devices such as smartphones and tablets.
- (5) Section 41 does not apply to any party political broadcast or referendum campaign broadcast included by a broadcaster in its broadcasting services.
- (6) In subsection (5)—
 - “broadcaster” has the meaning given in section 37(2) of PPERA;

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“referendum campaign broadcast” has the meaning given in section 127(2) of PPERA.

- (7) The Secretary of State may by regulations amend this section so as to add, modify or remove cases to which section 41 does not apply.

Commencement Information

19 S. 47 not in force at Royal Assent, see s. 67(1)

VALID FROM 01/11/2023

Enforcement

48 Offence of breaching section 41

- (1) Where any electronic material to which section 41 applies is published in contravention of that section, the following persons are guilty of an offence—
- the promoter of the material, and
 - any person on behalf of whom the material is being published (and who is not the promoter).
- (2) A person guilty of an offence under subsection (1) is liable—
- on summary conviction in England and Wales, to a fine;
 - on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove—
- that the contravention arose from circumstances beyond the person’s control, and
 - that the person took all reasonable steps, and exercised all due diligence, to ensure that the contravention would not arise.
- (4) It is a defence for a person charged with an offence under subsection (1) to prove that the person acted in accordance with guidance under section 54.
- (5) It is a defence for a person charged with an offence under subsection (1) in relation to the republication of electronic material to prove that—
- the electronic material had previously been published,
 - the person reasonably believed that when it was previously published—
 - section 41 applied to it, and
 - it was published in compliance with that section, and
 - it was not materially altered when it was republished.
- (6) In subsection (5)(c) the reference to electronic material not being materially altered includes a reference to the electronic material retaining—
- the information within section 41(3), or
 - the access to such information,

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as a result of which the person reasonably believed its previous publication complied with section 41.

- (7) The court by or before which a person is convicted of an offence under subsection (1) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.
- (8) This section is subject to [Schedule 11](#), which provides for certain persons who would otherwise be guilty of an offence under this section to be guilty of an illegal practice.
- (9) See also section 49, which makes provision about the removal etc of electronic material in the event of a conviction under this section.

Commencement Information

110 S. 48 not in force at Royal Assent, see [s. 67\(1\)](#)

49 Order to take down electronic material in breach of section 41

- (1) This section applies if, in respect of any electronic material, a person is convicted of—
 - (a) an offence under section 48(1), or
 - (b) an illegal practice by virtue of [Schedule 11](#).
- (2) The court by or before which the person is convicted of the offence or illegal practice may order a person by whom the electronic material is published to take the action specified in the order to remove the material, or to disable access to it, before the end of the period specified in the order.
- (3) Where an order is made under subsection (2), the person to whom it applies has the same right of appeal against it as if—
 - (a) the person had committed the offence under section 48(1) or (as the case may be) the illegal practice, and
 - (b) the order were a sentence passed on the person for the offence or illegal practice.
- (4) A person to whom an order under subsection (2) applies commits an offence if, without reasonable excuse, the person fails to comply with the order.
- (5) A person guilty of an offence under subsection (4) is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (6) The court by or before which a person is convicted of an offence under subsection (4) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.

Commencement Information

111 S. 49 not in force at Royal Assent, see [s. 67\(1\)](#)

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50 Enforcement by the Commission

- (1) Parts 1 to 4 and 6 of Schedule 19C to PPERA (civil sanctions) and the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 ([S.I. 2010/2860](#)) apply (subject to the following provisions of this section) in relation to an offence to which this section applies as they apply in relation to a prescribed offence under that Act.
- (2) This section applies to—
 - (a) an offence under section 48(1) which relates to the publication of electronic material which can reasonably be regarded as intended to achieve a purpose within—
 - (i) section 43(2) (registered parties etc),
 - (ii) section 43(7) (categories of elected office-holders), or
 - (iii) section 43(9) (referendums) where the referendum in question is a referendum to which Part 7 of PPERA applies and the electronic material is published during the referendum period (within the meaning of that Part) for that referendum, or
 - (b) an offence under section 48(1) which relates to the publication of electronic material—
 - (i) which falls within section 44(2)(b) (referendums), or
 - (ii) which can reasonably be regarded as intended to achieve a purpose within section 45(2) (registered parties etc).
- (3) In the application of paragraph 23 of Schedule 19C to PPERA (use of statements made compulsorily) by virtue of this section, the reference in sub-paragraph (1) of that paragraph to Schedule 19B to that Act is to be read as including a reference to [Schedule 12](#) to this Act.
- (4) In the application of paragraph 13(1)(a) of Schedule 1 to the Political Parties, Elections and Referendums (Civil Sanctions) Order 2010 ([S.I. 2010/2860](#)) by virtue of this section, the reference to PPERA and that Order is to be read as a reference to that Act and that Order as they are applied by this section.

Commencement Information

112 S. 50 not in force at Royal Assent, see [s. 67\(1\)](#)

51 Notice to take down electronic material in breach of section 41

- (1) This section applies if—
 - (a) the Commission imposes a fixed monetary penalty under paragraph 1 of Schedule 19C to PPERA on a person in relation to an offence under section 48(1) in respect of any electronic material,
 - (b) the Commission imposes a discretionary requirement under paragraph 5 of that Schedule on a person in relation to such an offence,
 - (c) the Commission serves a stop notice under paragraph 10 of that Schedule on a person in relation to such an offence, or
 - (d) the Commission accepts an undertaking under paragraph 15 of that Schedule from a person in relation to such an offence.

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- (2) The Commission may give a notice in writing to a person by whom the electronic material is published requiring the person to take the action specified in the notice to remove the material, or to disable access to it, before the end of the period specified in the notice.
- (3) A person to whom a notice under subsection (2) has been given commits an offence if, without reasonable excuse, the person fails to comply with the notice.
- (4) A person guilty of an offence under subsection (3) is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (5) The court by or before which a person is convicted of an offence under subsection (3) must notify the Commission of the person's conviction and the sentence imposed on the conviction as soon as is practicable.
- (6) This section is subject to section 52 (further provision about notices under this section).

Commencement Information

I13 S. 51 not in force at Royal Assent, see [s. 67\(1\)](#)

52 Further provision about notice under section 51

- (1) Before giving a notice under section 51(2) to a person the Commission must give the person a notice in writing of its intention to do so.
- (2) The person may, within the period specified in the notice under subsection (1), make written representations to the Commission in relation to the proposal to give the person a notice under section 51(2).
- (3) The Commission may give the person a notice under section 51(2) only if—
 - (a) the period for making representations has ended, and
 - (b) having taken any representations made by the person into account, the Commission is still of the view that it should give the person the notice under section 51(2).
- (4) A notice under subsection (1) must include information as to—
 - (a) the grounds for the proposal to give a notice to the person under section 51(2),
 - (b) the proposed effect of such a notice,
 - (c) the right to make representations, and
 - (d) the period within which representations may be made.
- (5) The period specified under subsection (4)(d) must not be less than 14 days beginning with the day on which the notice is given.
- (6) A notice under section 51(2) must include information as to—
 - (a) the grounds for serving the notice,
 - (b) rights of appeal, and

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- (c) the consequences of not complying with the notice.
- (7) The Commission may by notice in writing withdraw or vary a notice under section 51(2) at any time.
- (8) A person to whom a notice under section 51(2) has been given may appeal against the notice on the ground that—
 - (a) the decision to give the notice was based on an error of fact,
 - (b) the decision was wrong in law,
 - (c) the decision was unreasonable, or
 - (d) any action specified in the notice is unreasonable.
- (9) An appeal under subsection (8) is to—
 - (a) in England and Wales, the county court,
 - (b) in Scotland, a sheriff, or
 - (c) in Northern Ireland, a county court.
- (10) On an appeal under subsection (8) the county court or the sheriff may—
 - (a) withdraw, confirm or vary the notice, or
 - (b) remit the decision whether to withdraw, confirm or vary the notice to the Commission.

Commencement Information

I14 S. 52 not in force at Royal Assent, see s. 67(1)

53 Supply of information

- (1) Schedule 12 makes provision about the supply of information for the purposes of this Part.
- (2) Paragraphs 3 to 13 and 15 of Schedule 19B to PPERA (investigatory powers) apply in relation to an offence within section 50(2)(a) or (b) as they apply in relation to an offence under that Act.

Commencement Information

I15 S. 53 not in force at Royal Assent, see s. 67(1)

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.

Status: Point in time view as at 16/01/2023. This version of this part contains provisions that are not valid for this point in time.

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- (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.
- (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

I16 S. 54 not in force at Royal Assent, see [s. 67\(1\)](#)

Status: Point in time view as at 16/01/2023. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 01/11/2023

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),
 - (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

I17 S. 55 not in force at Royal Assent, see [s. 67\(1\)](#)

VALID FROM 01/11/2023

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.

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- (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.
- (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

I18 S. 56 not in force at Royal Assent, see [s. 67\(1\)](#)

VALID FROM 01/11/2023

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

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- (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.
- (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—
- an offence within section 50(2)(a) or (b), or
 - 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—
- that there are exceptional circumstances which justify the granting of the application, and
 - that there has been no undue delay in the investigation of the offence to which the application relates.

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- (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

I19 S. 57 not in force at Royal Assent, see [s. 67\(1\)](#)

VALID FROM 01/11/2023

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—
 - (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

I20 S. 58 not in force at Royal Assent, see [s. 67\(1\)](#)

VALID FROM 01/11/2023

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.

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- (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.

Commencement Information

I21 S. 59 not in force at Royal Assent, see s. 67(1)

VALID FROM 01/11/2023

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).

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Commencement Information

I22 S. 60 not in force at Royal Assent, see [s. 67\(1\)](#)

VALID FROM 01/11/2023

61 **Meaning of “the Commission”**

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

Commencement Information

I23 S. 61 not in force at Royal Assent, see [s. 67\(1\)](#)

Status:

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Changes to legislation:

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