POLICY NOTE

THE POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000 (NON-PARTY CAMPAIGNER CODE OF PRACTICE) (APPOINTED DATE) (SCOTLAND) (NO. 2) ORDER 2025

SSI 2025/347

The Scottish Ministers make this Order in exercise of the powers conferred by section 100BA(8)(b) of the Political Parties, Elections and Referendums Act 2000 ("PPERA") and all other powers enabling them to do so.

The instrument is not subject to parliamentary procedure.

Purpose of the instrument

A statutory Code of Practice has been prepared by the Electoral Commission for non-party campaigners during election campaigns for general elections to the Scottish Parliament. This Order sets 6 January 2026 as the date on which the Code will come into force.

This Order revokes the Political Parties, Elections and Referendums Act 2000 (Non-Party Campaigner Code of Practice) (Appointed Date) (Scotland) Order 2025 which was to come into force on 17 November 2025 and bring into force a previous version of the Code on that date.

Policy Objectives

1. Section 25 of the Scottish Elections (Representation and Reform) Act 2025 (the 2025 Act) inserted new sections 100AA and 100BA into PPERA[1]. These new sections place a duty on the Electoral Commission to produce a statutory Code of Practice on the application of expenditure controls for third party campaigners contained within PPERA as it relates to Scottish devolved elections and Scottish devolved regulated periods.

2. This change broadly mirrors sections 100A and 100B of PPERA, which were inserted by the Elections Act 2022 in respect of elections reserved to the UK Parliament.

3. The statutory Code which this Order will bring into force is a requirement of section 100AA of PPERA. The Code concerns the laws relating to non-party campaigner spending, including what spending is a controlled expenditure, reporting controlled expenditure and donations, and joint campaigning. It is intended to assist campaigners in complying with their duties.

4. A draft of the statutory Code was approved by the Scottish Ministers and laid before the Scottish Parliament on 16 September 2025. The Political Parties, Elections and Referendums Act 2000 (Non-Party Campaigner Code of Practice) (Appointed Date) (Scotland) Order 2025[2] was laid on 23 October 2025. That Order sought to commence the Code on 17 November 2025.

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1 https://www.legislation.gov.uk/asp/2025/4/contents

2 https://www.legislation.gov.uk/ssi/2025/288/made

5. It was subsequently identified that the statutory requirement for the Electoral Commission to consult the Scottish Parliament had not been met. The Electoral Commission undertook to complete this consultation and submit a revised Code to the Scottish Ministers. As a result this Order revokes the Political Parties, Elections and Referendums Act 2000 (Non-Party Campaigner Code of Practice) (Appointed Date) (Scotland) Order 2025 which refers to a previous draft of the Code which will now not come into force.

6. The statutory consultation with the Scottish Parliament has now occurred and a revised version of the Code has been submitted to Scottish Ministers. That Code was approved by the Scottish Ministers and was laid before the Scottish Parliament on 10 November 2025. The Minister for Parliamentary Business and Veterans explained his approach, including the need to breach standing orders in laying this SSI in letters to the Delegated Powers and Law Reform Committee and the Standards, Procedures and Public Appointments Committee[3].

7. Under section 100BA(6) of PPERA, the Scottish Parliament has 40 days (excluding days in which Parliament is in recess or dissolved) to consider the draft Code. Within the consideration period, the Parliament may resolve not to approve the draft Code. If such a resolution is passed, the Code cannot come into force in its present form. If a resolution not approving the Code were passed, this Order must be revoked to prevent the Code from coming into force.

8. This Order appoints 6 January 2026 as the date on which the statutory Code comes into force. This ensures that the Code is in place in advance of the Scottish devolved regulated period which occurs before the 2026 Scottish Parliament elections.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

9. The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Political Parties, Elections and Referendums Act 2000 (Non-Party Campaigner Code of Practice) (Appointed Date) (Scotland) (No. 2) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

10. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

3 https://www.parliament.scot/-/media/files/committees/delegated-powers-and-law-reform-committee/correspondence/2025/20251105_letter-from-graeme-dey-msp-minister-for-parliamentary-business-and-veterans.pdf

11. The Electoral Commission held a public consultation on this Code until 13 June 2025[4]. As noted above, subsequent consultation with the Scottish Parliament resulted in a revised version of the Code being submitted to Ministers on 7 November 2025.

12. Further information on the consultation proceeding the 2025 Act, which ran from 14 December 2022 to 15 March 2023 is available on the Scottish Government website[5].

Impact Assessments

13. The Scottish Government has prepared a Child Rights and Wellbeing Impact Assessment (CRWIA). The CRWIA notes that the Code introduces no new legal requirements and is intended only to support compliance with Part 6 of PPERA. Following the Code is not mandatory. It therefore has no impact on children's rights or wellbeing.

14. An Equalities Impact Assessment (EQIA) was prepared for the Bill which proceeded the 2025 Act[6]. This describes the overall policy of the Act.

15. The Scottish Government view is that this Order has no significant impact on data protection, the environment, fairness; island communities and therefore no impact assessments are required for those areas.

Business and Regulatory Impact Assessment (BRIA)

16. The Minister for Parliamentary Business and Veterans confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Financial Implications

17. There are no specific significant costs associated with the changes made in this Order.

Scottish Government
Directorate for Constitution
November 2025

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4 https://www.electoralcommission.org.uk/news-and-views/our-consultations/consultation-code-practice-non-party-campaigners-scotland

5 https://www.gov.scot/publications/scottish-government-response-results-electoral-reform-consultation-2022-23/

6 https://www.gov.scot/publications/scottish-elections-representation-reform-bill-equality-impact-assessment-results/