

Referendums (Scotland) Bill

2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 6	Schedule 1
Sections 7 to 12	Schedule 2
Section 13	Schedule 3
Section 14	Schedules 4 and 5
Sections 15 to 35	Schedule 6
Sections 36 to 40	Schedule 7
Sections 41 and 42	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Schedule 6

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.
- (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).>

Section 37

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.>

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.>

Section 39

Jackie Baillie

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

After section 39

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,
 - (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.>

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.>

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*).>

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.>

Schedule 7

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>

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