

Elections Bill

Memorandum from the Cabinet Office to the Delegated Powers and Regulatory Reform Committee

Introduction

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Elections Bill (“the Bill”). The Bill will be introduced in the House of Commons on 5th July 2021. This memorandum identifies the provisions of the Bill that confer or amend powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

Purpose and effect of the Bill

Part 1 - Administration and conduct of elections

2. This Part contains various provisions to tackle electoral fraud, some of which were recommendations of the Pickles Report: “Securing the Ballot”. They introduce a requirement to show photographic identification when voting in a polling station at UK Parliamentary elections taking place in England, Wales or Scotland, and tighten up various rules relating to postal and proxy voting to improve their resistance to fraud. The existing offence of ‘undue influence’ is clarified. This Part also makes provision intended to improve accessibility of voting for people with disabilities.

Part 2 - Overseas electors and EU citizens

3. This Part expands the franchise for UK Parliamentary elections for overseas electors and makes provision about their electoral registration. Separately, it changes the franchise for local and PCC elections in England, and local and Assembly elections in Northern Ireland. For EU citizens, eligibility to register and vote will apply to those who were already living in the UK by 31st December 2020, or those from an EU Member State with which the UK has a treaty guaranteeing mutual voting and candidacy rights.

Part 3 - Electoral Commission

4. This Part makes a range of provisions relating to the Electoral Commission, including power for Ministers to create a statement of strategic priorities for the Commission to have regard to, and strengthening the scrutiny by the Speaker’s Committee.

Part 4 - Regulation of expenditure

5. This Part makes changes to rules on expenditure incurred by registered parties, candidates, third party campaigners and others. It also makes provision in relation to the registration and funding of political parties.

Part 5 - Disqualification

6. This Part creates a new electoral sanction where certain offences are committed involving intimidation of candidates, holders of elected office, and others involved in the electoral process. The person convicted can be disqualified from seeking or holding certain elected office for a period of five years.

Part 6 - Information to be included with electronic material

7. This Part creates a new imprint regime for online political campaigning material for paid for and certain unpaid for electronic material. Electronic material, within the scope of the regime, will require an imprint to identify the promoter of the material or any person on behalf of whom the material is being published (and who is not the promoter)

Part 7 - General

8. This Part contains general provision about the Bill as a whole, including powers to make commencement regulations, and to update references to secondary legislation.

Delegated Powers

9. Electoral legislation is complex and voluminous, and is spread across both primary and a significant amount of secondary legislation. Most of the delegated powers in the Bill relate to the conduct and administration of elections, and electoral registration. There is already a relatively clear approach in the body of relevant legislation to the types of provision which appear in the primary legislation, and what is dealt with in secondary legislation, the latter usually being the very detailed procedural rules. The delegated powers being taken in this Bill seek to reflect that approach.
10. A delegated power is taken in Part 2 to add or remove countries from the Schedule of EU Member States with which the UK has a voting and candidacy rights treaty. This is acknowledged to be a significant power of a constitutional nature, given that it affects the franchise for certain elections. The power to add countries is framed as a duty, and to remove countries as a discretion. The latter is discretionary because of the array of circumstances in which removal of a country may be considered.
11. A small number of powers are being taken in respect of other subject matters, such as political finance (Part 4) and digital imprints (Part 6). Here, the necessity for a delegated power has been carefully considered. In connection with the digital imprints policy, by its nature it is very likely to be impacted by technological developments and therefore to need a degree of updating via secondary legislation.
12. Acknowledging the significance of electoral legislation, the vast majority of delegated powers being taken in this Bill will be subject to affirmative resolution procedure to ensure appropriate Parliamentary scrutiny. Where that is not the case we have sought to carefully explain the rationale for taking a different approach.

Powers in Part 1 (Administration and conduct of elections)

Clause 1 and Schedule 1 - Voter Identification

Schedule 1, paragraph 2 - new section 13BD(3), (4), (5), (6), (7) RPA 1983 - power to make provision about applications for an electoral identity document

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

13. Paragraph 2 of Schedule 1 inserts a new section 13BD into the Representation of the People Act 1983 (“RPA 1983”). This section makes provision in relation to the electoral identity document (referred to hereafter as a “Voter Card”) in Great Britain. New section 13BD(3), (4), (5) and (6) would allow regulations to be made about an application for this card. The purpose of these powers is to allow provision to be made in Regulations in relation to the following:
- the form in which an application for such a card is to be made;
 - the details to be provided by an applicant, including the details of the form of any declaration to be made by an applicant, and the evidence which an applicant will be required to provide in support of their application;
 - how the application is to be determined;
 - the timing of an application (for example, any deadlines);
 - the issuing of a Voter Card;
 - enabling an electoral registration officer (“ERO”) to obtain information about the application for other persons; and
 - requiring an ERO to keep records about applications.
14. A key aspect, which is that the Voter Card must be issued free of charge, is set out on the face of the Bill.

Justification for taking the power

15. The Government considers it appropriate to set this level of procedural detail in secondary legislation in order to allow for consultation with the electoral community to take place, and to ensure a means for the detailed requirements of the application form and supporting documents to be updated in future. This would allow the application process to be improved in light of experience and for the list of accepted documentary evidence to be revised to reflect changes in the documents available. It would also allow deadlines to be changed in light of experience and any practical difficulties.
16. Setting out this level of procedural detail in secondary legislation is analogous to the provisions in respect of making an application to register on an electoral register in Great Britain under sections 10ZC or 10ZD of the RPA 1983, or to apply for an absent vote under Schedule 4 to the Representation of the People Act 2000 (“RPA 2000”), where the detailed procedure, and any documentary evidence or attestation required are set out in Regulations. It is also analogous to the existing position for Northern

Ireland where electoral identity cards are already available. Under section 13C of the RPA 1983, regulations set out the detailed procedure for application in relation to those cards.

17. The power to make provision about the issuing of the Voter Card will enable changes to be made as new approaches become possible, for example where it could be provided digitally on a secure app, or to be collected from different locations. Because the regulations could be used to provide for the Voter Card to be collected from a polling station, this power includes (subsection (7)) the ability to amend the detailed rules about conduct of Parliamentary elections, set out in Schedule 1 to the RPA 1983, but only for that narrow purpose. This is necessary because those rules contain detailed procedures to be followed at a polling station. *This element of the power is a Henry VIII power.*

Justification for the procedure

18. In keeping with regulations under the 1983 Act about procedural requirements in connection with electoral registration, and those in the RPA 2000 about applications for postal or proxy votes, the affirmative procedure is applied to ensure the appropriate degree of parliamentary scrutiny. This will also apply to power to amend Schedule 1 to the RPA 1983.

Schedule 1, paragraph 2 - new section 13BD(9), (10), (11) RPA 1983 - power to make provision about electoral identity documents

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

19. New section 13BD (9) and (10) is about the content of the Voter Card. Under subsection (9) regulations must be made to require that the card contains the elector's name and photograph, as that is the key purpose of it in respect of providing proof of identity at a polling station. Under subsection (10), further information to be contained on the Voter Card can be prescribed.
20. New subsection (11) confers power to make regulations about the form of a Voter Card, and the period for which it is valid.

Justification for taking the power

21. Whilst the requirement for the name and photograph to be contained on the Voter Card could have been set out on the face of the primary legislation, the Government considers that it is better to have all of the detail about the card in one place, in secondary legislation. However, the mandatory nature of the power in subsection (9) provides certainty about the fundamental aspects of the document and limits the

discretion delegated to Ministers. Allowing additional details to be prescribed is appropriate to allow consideration as to what, if any, further details, such as registered address, could be included on the Voter Card.

22. The ability to make regulations about the form of the Voter Card would permit different forms of document to be issued in different circumstances. This is desirable, to be able to take account of changing costs and preferences for different formats or materials, and also technological advances.

Justification for the procedure

As with the power above, the affirmative procedure is the same as for analogous powers elsewhere in the RPA 1983 and in the RPA 2000, and will provide an appropriate degree of Parliamentary scrutiny for regulations about the identity document.

Schedule 1, paragraph 2 - new section 13BE(3), (4), (5), (6) and (7) RPA 1983 - power to make provisions about an application for an anonymous elector's document

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

23. New section 13BE mirrors new section 13BD (discussed above) but applies where the application for an electoral identity document is made by a person who has an anonymous entry in the register of electors. The powers contained in new section 13BE(3), (4), (5), (6) and (7) are the same as those discussed above in relation to new section 13BD. *Subsection (7) is a Henry VIII power.*

Justification for taking the power

24. The explanation of the justification is the same as set out above for section 13BD.

Justification for the procedure

25. The justification for the procedure is the same as set out above for section 13BD.

Schedule 1, paragraph 2 - new section 13BE(9), (10) and (11) RPA 1983 - power to make provisions about the content and period of validity of anonymous elector's documents

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

26. As explained above, section 13BE provides for Voter Cards for electors with an anonymous entry in the electoral register. Subsections (9) and (10) are almost identical to section 13BD(9) and (10) except that regulations must provide for the Voter Card to contain the elector's electoral registration number, rather than the elector's name. Subsection (11) provides the same power as in section 13BD for regulations to provide for the form and period of validity of an anonymous Voter Card.

Justification for taking the power

27. The justification for these powers is the same as for the equivalent powers in section 13BD (see above).

Justification for the procedure

28. The justification for the procedure is the same as for the equivalent powers in section 13BD (see above).

Schedule 1, paragraph 3 - section 13C RPA 1983 - new (3A), (3B) and (4A) - additional powers to make provisions about an application for electoral identity card in Northern Ireland

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

29. In Northern Ireland, there is already a requirement to show voter identification at polling stations, and section 13C of the RPA 1983 enables electors to obtain an electoral identity card for this purpose. Section 13C already contains a number of delegated powers. Consistent with provision being made for the electoral identification documents for Great Britain (in new section 13BD, discussed above), a small number of supplementary powers are being included.

30. Section 13C(1) of the RPA 1983 already enables regulations to prescribe the information that must be included in an application for an electoral identity card. New sub-section (3A)(a) supplements those powers by enabling regulations to authorise the Chief Electoral Officer (who fulfils the same registration functions in Northern Ireland as electoral registration officers do in Great Britain) to obtain information relevant to determining applications for an electoral identity card. This is equivalent to the power in new section 13BD(5)(b).

31. New section 13C(3A)(b) enables regulations to make provision about the issuing or collection of cards and subsection (3B) enables that provision to include amendments to the Rules (in Schedule 1 to the RPA 1983) where collection is to be from a polling station, *and is a Henry VIII power*. This is equivalent to the powers in new section 13BD(5)(c) and (7)
32. Section 13C(4)(d) of the RPA 1983 already enables the Chief Electoral Officer to decide upon the form of and information to be contained in electoral identity cards (except where specific information is required to be included by section 13C(4)). The power at new section 13C(4A) also enables the form of and information to be contained in electoral identity cards to be prescribed in regulations (except where s.13C(4)(a) - (c) specify otherwise). These regulations would limit the Chief Electoral Officer's existing discretionary powers. The new power is equivalent to the power in new section 13BD(11)(a).

Justification for the power

33. The new powers reflect the equivalent powers for Great Britain in new section 13BD. Conferring similar powers in relation to Northern Ireland will enable the Government to ensure consistency between the requirements for identity documents in Great Britain and Northern Ireland.
34. The requirements for applications for identity cards are already set out in secondary legislation and the Government considers that it is appropriate for the Chief Electoral Officer's ability to obtain further information about those applications (new sub-section (3A)(a)) also be contained in regulations. Setting out this power in secondary legislation would allow the Chief Electoral Officer's powers to be revised to reflect any changes made to the application process. A similar delegated power already enables registration officers to require information relating to applications for registration (paragraph 1(2) of Schedule 2 to the RPA 1983 Act).
35. The justification for the new section 13C(3A)(b) power (power to make provision about the issuing of the document) is the same as set out above for section 13BD(5)(c) and (7).
36. The power to determine the form and content of electoral identity cards is already delegated to the Chief Electoral Officer. The power at new Section 13C(4A) will also allow these requirements to be set out in regulations made by the Secretary of State or Minister for the Cabinet Office. Setting out these requirements in regulations will give Parliament a role in scrutinising those requirements and provide greater certainty to electors.

Justification for the procedure

37. In keeping with regulations under the RPA 1983 about procedural requirements in connection with electoral registration (section 53 and Schedule 2 to the RPA 1983), and regulations made under the RPA 1985 about applications for an absent vote in Northern Ireland (see e.g. sections 6(1)(c) and 7(1)(c) of the RPA 1985), the affirmative

procedure is applied to ensure the appropriate degree of parliamentary scrutiny. This will also apply to the Henry VIII power.

Schedule 1, paragraph 11 - new rule 28(3ZA) of the Parliamentary Elections Rules - power to include details about acceptable identification documents on the poll card.

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

38. Most of the detailed rules for the conduct of a Parliamentary election are set out in the Parliamentary Elections Rules (“the Rules”) contained in Schedule 1 to the RPA 1983. (For all other types of elections, conduct rules are contained in secondary legislation).

39. Rule 28(3) of the Rules provides that the official poll card is to be in the prescribed form, and must set out a number of details listed in that paragraph. Section 202 of the RPA 1983 defines ‘prescribed’ as meaning ‘prescribed in Regulations’. Paragraph 12 inserts new paragraph (3ZA) into rule 28. This provides that the official poll card which applies in relation to elections in England and Wales, or Scotland, and which is to be sent to an elector or proxy who is voting in person at the polling station, must include the list of accepted identification documents specified in rule 37(1G) of the parliamentary election rules. This power, therefore, expands an existing power to make affirmative procedure regulations to set out the form of the official polling card for parliamentary elections by including a new mandatory element of content in that form relating to voter identification.

Justification for taking the power

40. This expansion of the power is considered by the Government appropriate in order to ensure that all electors and proxies who vote at the polling station are informed in advance of what identity documents they can take in order to cast their vote.

Justification for the procedure

41. As this is an expansion of an existing power, the same procedure (affirmative resolution) will apply and the Government considers that this is appropriate.

Schedule 1, paragraph 12(2) - new rule 29(3ZA) of the Rules - power to prescribe the form of the ballot paper refusal list

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

42. Rule 40ZB of the Rules (inserted by paragraph 19) requires the completion of the 'ballot paper refusal list' where a person is refused a ballot because they have failed to show suitable ID. Rule 29(3ZA) requires the returning officer for the relevant electoral area to provide a ballot paper refusal list to each polling station which must be in the prescribed form. This is to ensure that the list is consistent for each polling station.

Justification for taking the power

43. Whilst a small number of prescribed forms or documents are set out in the Rules, the majority are set out in secondary legislation, including similar forms which are to be completed by the presiding officer at a polling station. For example, under Rule 19A, a 'corresponding number list' must be prepared and shall be in a form prescribed in regulations. It would not be appropriate for large numbers of forms to be included in primary legislation, and most of the forms are prescribed in the Representation of the People (England and Wales) Regulations 2001.

Justification for the procedure

44. The affirmative resolution procedure is used for all powers contained in the Rules in Schedule 1 to the RPA 1983, including those to prescribe forms, so that precedent is followed here to ensure suitable Parliamentary scrutiny of all the rules for the conduct of a Parliamentary election.

Schedule 1, paragraph 15(4) - new rule 37(1K) of the Rules - power to vary the list of specified documents in new rule 37(1H) for Great Britain

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

45. Paragraph 15(4) inserts new provisions into rule 37 of the Rules, as it applies to Great Britain, including rule 37(1H) setting out the list of specified documents which are accepted as identification at a polling station. Rule 37(1K) provides a power to make affirmative procedure regulations to vary this list whether by adding or removing documents or varying any description of documents. *This is a Henry VIII power.*

Justification for taking the power

46. It is necessary and appropriate to have the ability to amend the list of accepted documents by regulations in order to ensure that updates to the list can be made without further primary legislation. Without this ability it might become more difficult for people to have suitable identification documents because the list is out of date. The power might be used to update the list to remove documents which might no longer exist or no longer be considered to be suitable; add new documents which might come into existence in future, if they are considered to be suitable; and amend descriptions of documents on the list to ensure they remain accurate if details such as the name of a particular document changes over time. This process is analogous to that contained in the version of rule 37(1F) which applies in Northern Ireland, where the list of specified identity documents accepted at parliamentary elections in Northern Ireland can be varied by affirmative procedure regulations.
47. As noted above, however, the power to remove documents from the list is subject to additional safeguards and limits.
48. The power in respect of Northern Ireland has been exercised 4 times since the Electoral Fraud (Northern Ireland) Act 2002 (which put in place the provisions enabling the electoral identity card in Northern Ireland to be issued under section 13C of the RPA 1983). The amendments made since then have been to add a Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme; to remove from the list of specified documents all non-photographic forms of identity document; to include two new types of travel card – the Blind Person’s SmartPass and the War Disabled SmartPass, and remove the requirement that identification documents must be “current” in order to be acceptable; and to include a 60+ SmartPass issued under the Northern Ireland Concessionary Fares Scheme as well as including provisional driving licences and European Community driving licences.

Justification for the procedure

49. The power to amend the list is subject to affirmative procedure, as is the case for the equivalent power in relation to Northern Ireland. This level of scrutiny will ensure Parliament has to approve any changes to the list.

Schedule 1, paragraph 21 - new rule 40B(1), (2) and (4)(b) of the Rules - power to make provision about the data to be collected at polling stations about the use of identification documents by voters

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

50. New rule 40B concerns collection of data about how the requirement for voters to show photographic identification works in practice at a polling station. This is to enable meaningful evaluation of the effect of the policy, which is to be carried out by Ministers for the first two Parliamentary General Elections which take place after these new requirements are rolled out, and the first set of stand-alone local council elections. The data is to be collected by presiding officers (or their staff) at polling stations, and passed to the Returning Officer, who must anonymise and collate it before providing it to Cabinet Office Ministers for the purpose of evaluation.
51. As a result of paragraph (1) of Rule 40B, the duty to collect the data will only apply to an election which Regulations say it applies to, or is within a description set out in Regulations. The actual data which is to be collected will be prescribed by the regulations (paragraph (2)(a)), as well as how it is to be collated by the Returning Officer (paragraph (4)(b)).

Justification for taking the power

52. It is appropriate to set out the detailed requirements of exactly what data is to be collected in secondary legislation, and to retain the ability to change these over time, to reflect any changes to procedure made elsewhere. Over time, it may also be necessary to collect less data, so that the process is less burdensome. The data which can be prescribed must relate to applications for a ballot paper made under rule 37 (or applications to vote in other ways to which the voter identification requirements also apply), and it is envisaged this will be used to get data about the types of identification documents that people bring to the polling station, the degree of use of Voter Cards (under new sections 13BD and 13BE of the RPA 1983) and how many are required to come back with something else, or are ultimately refused a ballot paper.
53. Similarly, the level of collation required to be carried out on the data before it is sent to the Cabinet Office is an appropriate level of detail to sit in secondary rather than

primary legislation, and again may need to change over time depending on what is considered most useful.

54. Finally, it is important that data collection is not done where it is unnecessary, and therefore that there is a mechanism in secondary legislation to specify which elections data is collected at. The power in paragraph (1) will enable data collection to be proportionate in terms of which elections it is carried out at. At the very least, it will need to be collected for the elections where there is a corresponding duty on Ministers to evaluate and report on the impact of the policy. However, there may be an ongoing desire to monitor certain trends, or to test again the impacts if any of the rules are changed.

Justification for the procedure

55. Whilst these are matters of detail about a data collection exercise, in keeping with other powers relating to conduct of Parliamentary elections, the affirmative resolution process will ensure there is a suitable degree of parliamentary scrutiny over the secondary legislation.

Schedule 1, paragraph 26 - new rule 56A of the Rules - power to make provision about the opening of the sealed packet containing the completed ballot paper refusal list

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

56. Paragraph 26 inserts a new rule 56A into the Rules. This provides a power to make regulations setting out the circumstances in which a returning officer may inspect the ballot paper refusal list, including setting conditions as to its inspection and about the disclosure by the returning officer of information contained in that list. It is appropriate to set out in regulations the exact circumstances in which a returning officer can access the ballot paper refusal list and any conditions placed on that access. The ballot paper refusal list will contain details identifying individuals who were refused a ballot paper at the polling station, and as a result, this information should only be available to returning officers in certain circumstances and subject to certain conditions being met.

Justification for taking the power

57. It is appropriate to include these details in regulations in order to ensure that they can be updated over time in light of experience and to ensure that any changes to the information contained in the list, which is also to be prescribed in regulations, can be taken into account. It is also appropriate to make provision in regulations about the disclosure by the returning officer of any information contained in the list in order to allow the details to be updated as necessary in light of experience. Including these details in regulations will also allow consultation with the electoral community to take place. The powers are analogous to those in rule 57 of the Rules which provide powers

for affirmative procedure regulations to impose conditions about the inspection and supply of election documents which are open to public inspection, the form of such documents, and conditions about taking copies of such documents and the supply of the documents to other persons.

Justification for the procedure

58. The use of the affirmative procedure ensures appropriate levels of scrutiny by Parliament of this important aspect and is analogous to similar existing powers.

Clause 2 and Schedule 2 - Postal vote period

Schedule 2, paragraph 4(12) - power to specify a day for the purpose of the transitional provisions related to postal voting changes

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

59. Paragraph 4(12) of Schedule 2 gives the power to the Secretary of State or the Minister for the Cabinet Office to make regulations to specify the date when transitional arrangements set out in that Schedule come into force.

Justification for taking the power

60. The transitional provisions in relation to postal voting are set out on the face of the Bill. This power is to allow the government to specify the date when the transitional provisions are to be commenced. This is akin to a commencement power and is to ensure that the government has the ability to introduce the transitional arrangements at a time that is convenient.

Justification for the procedure

61. As is usual with commencement powers, regulations made under this paragraph are not subject to any parliamentary procedure. Parliament has approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.

Clause 4 - handing in postal votes

Clause 4(5)- insertion of new paragraph 12ZA and 12ZB into Schedule 2 RPA 1983 (provision about postal voting documents returned by hand to a polling station or the returning officer)

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

62. Clause 4(5) inserts new paragraphs 12ZA and 12ZB into Schedule 2 to the RPA 1983. Schedule 2 lists things that may be covered in Regulations made under section 53 of RPA 1983 (power to make regulations as to registration and absent voting). The new provision that can be made under this power only applies where provision has been made in secondary legislation allowing postal votes to be handed in to polling stations or the returning officer (rather than sent by post) in relation to a “relevant election”.
63. The new paragraph 12ZA allows regulations to make provision for various processes in relation to the handing in of postal votes. This includes setting the maximum number of postal votes a person can hand in, requiring a person handing in postal votes to complete a form, setting out the contents of that form, and requiring the relevant officer to reject a postal voting document handed in by a person who has not provided prescribed information in the form.
64. The new paragraph 12ZA will also require the rejection of postal votes handed in by the same person where this exceeds the maximum, and provide for the relevant officer to be able to reject postal vote documents if they have a reasonable suspicion that a person has committed an offence under section 65ZA of the Representation of the People Act 1983, which is to be inserted by this Bill. That offence prohibits handling of postal voting documents for the purpose of promoting a particular outcome at an election. The purpose of this is to ensure that, where a person is engaging in conduct that appears to be in breach of that offence, the votes that they are corruptly handling should not be accepted. Regulations will set out how the relevant officer should deal with this scenario.
65. The new paragraph 12ZA also allows regulations to make provision for the notification of the elector whose postal voting documents were rejected (and a person acting as proxy on behalf of that elector, if the vote rejected was a postal vote by proxy), and the process for the storage and transfer of duly handed in and rejected or left behind postal vote documents.
66. New paragraph 12ZB includes a similar power to make provision in relation to the handing in of postal votes in Northern Ireland, where provision is made under Rule 45(2) of Schedule 1 to RPA 1983 allowing the handing in of postal votes. These

provisions mirror those described in paragraphs [65-68] above. There is an amendment in clause 4(4)(b)(i) which inserts into the existing power in rule 45(2) to make provision allowing handing in, a specific power to prescribe the manner of return. This provides the ability to specify how the postal vote is returned but forms part of the existing power to enable the return of postal votes by hand to the returning officer in Northern Ireland.

Justification for taking the power

67. A range of existing provisions in secondary legislation provide for the practical administrative arrangements at polling stations. The current rule 45(1B) of Schedule 1 to RPA 1983 makes provision for regulations to prescribe the manner of the due return of postal votes in Great Britain, and the provision made under this proposed new paragraph 12ZA is directly comparable with (and flows from) that provision. Similarly, the current rule 45(2) of Schedule 1 to RPA 1983 makes provision in relation to Northern Ireland, and the provision made under new paragraph 12ZB is similarly comparable with and flowing from that. It has therefore previously been considered appropriate to make provision for the due return of postal votes in secondary legislation, and this provision will further clarify the steps to be taken upon the handing in of such postal votes. Making provision in secondary legislation will ensure full consultation with the electoral community about the specifics of procedure, and to allow changes to be made more easily to the maximum number of postal votes and the processes attached if practical experience suggests amendments are needed.

68. The powers have been drafted as narrowly as possible, and a significant level of detail included as to what provision could be made under those powers.

Justification for the procedure

69. In line with the procedure attached to the regulations made under rule 45(1B) and (2) of Schedule 1 to RPA 1983 (and the majority of regulations made under the RPA 1983), the Government considers that the affirmative procedure is the appropriate procedure. This ensures that all provision relating to the handing in of postal votes will be subject to the same level of scrutiny.

Clause 5 and Schedule 3 - Proxies

Schedule 3, paragraph 5 - new section 5C of Schedule 2 to the RPA 1983 - power to make provision about pre-appointment checks for proxies in Northern Ireland parliamentary elections

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

70. Paragraph 6 of Schedule 3 amends the Representation of the People Act 1985 (“RPA 1985”) to create a requirement that for an individual to be appointed as, or to vote as, a proxy on behalf of another person in a Northern Ireland parliamentary election, the individual must be registered to vote (currently the requirement is that a person fulfils certain nationality related requirements and is not subject to a legal incapacity to vote). This change brings the position in Northern Ireland in line with that in Great Britain.
71. Paragraph 5 of Schedule 3 inserts a new paragraph 5C into Schedule 2 to the RPA 1983. This paragraph provides a power to make provision by regulations about the steps the Chief Electoral Officer for Northern Ireland (“CEO”) must take to check that proposed proxies meet the new requirement in the RPA 1985. The regulations may also enable the CEO, when receiving an application for the appointment of a proxy who is not resident in Northern Ireland, to contact the registration officer for the area in Great Britain where the proposed proxy is resident in order to obtain information about them.

Justification for taking the power

72. It is appropriate to include these details in regulations in order to ensure that they can be updated over time in light of experience. Including these details in regulations will also allow consultation with the electoral community to take place.
73. Setting out this level of procedural detail in secondary legislation mirrors the position in Great Britain, where existing paragraph 5B of Schedule 2 to the RPA 1983 sets out a near identical power for Great Britain. The existing proxy requirements in Northern Ireland are also supplemented by powers at paragraph 5(2) and 5A of Schedule 2 to the RPA 1983, which enable procedural details about proxy appointments to be set out in secondary legislation.
74. Given that an equivalent power already exists in Great Britain, delegating this power will enable changes made to proxy voting arrangements under the Great Britain power to be mirrored in Northern Ireland and avoid unnecessary divergence in their electoral systems.

Justification for the procedure

75. In keeping with regulations under the RPA 1983 about procedural requirements in connection with applications for proxy votes, the affirmative procedure is applied to ensure the appropriate degree of parliamentary scrutiny. This is the same procedure that applies to the equivalent power in Great Britain.

Schedule 3, paragraph 8(8) - power to specify a day for the purpose of the transitional provisions related to the termination of certain proxy appointments

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

76. Paragraph 8(8) of Schedule 3 gives the power to the Secretary of State or the Minister for the Cabinet Office to make regulations to specify the date when existing proxy arrangements terminate, and the new rules set out in that Schedule come into force. The term “specified” in relation to the date when existing proxy arrangements terminate is also used in paragraph 10(1) of that Schedule in relation to the disregarding of applications made prior to the “specified day”. The termination of existing arrangements and disregarding of applications is subject to an exception set out in paragraphs 8(1)(a) and 10(3), allowing for the survival of appointments or applications where the application was made on or after the day specified for commencement of the offence in paragraph 2(2).

Justification for taking the power

77. This power is to allow the government to specify the date when existing proxy arrangements terminate in relation to UK Parliamentary elections and English local elections. This is akin to a commencement power. The power is to ensure that the government has the ability to introduce the new proxy arrangements at a time that is appropriate and administratively workable.

Justification for the procedure

78. As is usual with commencement powers, regulations made under this paragraph are not subject to any parliamentary procedure. Parliament will have approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.

Schedule 3, paragraph 9(6), and Schedule 5, paragraph 21(5) and 33(5) - power to specify a day for the purpose of the transitional provisions related to the termination of certain proxy appointments

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

79. Paragraph 9(6) of Schedule 3 to the Bill gives the power to the Secretary of State or Minister for the Cabinet Office to make regulations to specify the date when existing proxy arrangements for UK Parliamentary elections in Northern Ireland terminate, and the new rules set out in that paragraph come into force in relation to those elections. Paragraph 21(5) and (33(5) of Schedule 5 to the Bill do the same for Northern Ireland local elections and Assembly elections. The term “specified” in relation to the date when existing proxy arrangements terminate is also used in paragraphs 11(1), 22(1) and 34(1) in relation to the disregarding of applications made prior to the “specified day”. The termination of existing arrangements and disregarding of applications relating to Parliamentary elections in Northern Ireland is subject to an exception set out in paragraphs 9(1)(a) and (11(3), allowing for the survival of appointments or applications where the application was made after the commencement of the offence in paragraph 2(2) of Schedule 3 or the commencement of the requirement (that proxy appointees be registered in an electoral register) in paragraph 6(2) of Schedule 3. Paragraphs 21(1)(a) and 22(4) of Schedule 5 make equivalent provision for Northern Ireland local elections and paragraphs 33(1)(a) and 33(4) of Schedule 5 do the same for Northern Ireland Assembly elections.

Justification for taking the power

80. This power is to allow the government to specify the date when existing proxy arrangements terminate in relation to Northern Irish local and Assembly elections. This is akin to a commencement power. The power is to ensure that the government is able to introduce the new proxy arrangements at a time that is appropriate and administratively workable.

Justification for the procedure

81. As is usual with commencement powers, regulations made under this paragraph are not subject to any parliamentary procedure. Parliament will have approved the principle of the provisions to be commenced by enacting them; commencement by regulations enables the provisions to be brought into force at a convenient time.

Powers in Part 2 (Overseas Electors and EU Citizens)

Overseas electors - clause 10 and Schedule 6

Clause 10(1) - new section 1C(1)(f) of the Representation of the People Act 1985 - power to prescribe information and/or requirements for overseas electors declarations

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

82. Clause 10 of the Bill extends the existing UK parliamentary franchise for overseas electors, and it does so by replacing current sections 1 and 2 of the Representation of the People Act 1985 (“the RPA 1985”) with new sections 1 to 1E. As a result, a number of existing delegated powers within sections 1 and 2 RPA 1985 are restated (in some cases, with small alterations within new sections 1 to 1E).
83. New section 1C(1)(f) of the RPA 1985 (as read with section 27(2) of that Act, and the definition of “prescribed” in section 202(1), and section 201, of the RPA 1983) would allow regulations to be made which prescribe other information which a person must provide as part of an overseas electors’ declaration which they are making, and other requirements which that declaration must satisfy, in order for that person to be successfully registered as an overseas elector in a register of parliamentary electors kept for a particular parliamentary constituency by an ERO. The additional information that a declaration must contain, and the additional requirements that the declaration must satisfy, would supplement the main requirements described in new section 1C.
84. This power is essentially a restatement of the existing power in section 2(3) of the RPA 1985 (as read with the same additional provisions as outlined above), although the new power is narrower than the existing power in that new section 1C(1)(f) does not allow for requirements for the charging of fees in respect of attestations.
85. The purpose of the power is to ensure that sufficiently detailed information and sufficient supporting evidence relating to the identity of the maker of an overseas elector’s declaration and that person’s qualifications to be registered as an overseas elector is required to be provided to the relevant ERO for their consideration.

Justification for taking the power

86. As is currently the case with the existing power, the Government considers it appropriate to provide for these additional requirements in secondary legislation. This will allow for the specific additional information and other requirements to be determined and implemented in consultation with the electoral community. It will also allow those requirements to be updated as necessary in future as a result of experience following the initial implementation or as the result of the changing availability of types of supporting evidence.

Justification for the procedure

87. As is currently the case with the existing power, the Government considers that the affirmative procedure continues to be the appropriate level of parliamentary scrutiny for the regulations which prescribe these additional requirements for overseas elector's declarations.

Clause 10(1) - new section 1D(4)(a) of the RPA 1985 - power to make regulations as to the determination by a registration officer that an overseas elector was not entitled to be registered or remain registered

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

88. New section 1D(4)(a) of the RPA 1985 (as read with section 27(2) of that Act, and section 201 of the RPA 1983) would allow regulations to be made which set out the procedural steps by which an ERO can determine that a person who is registered as an overseas elector either was not entitled to be registered or is no longer entitled to remain registered. This power is essentially a restatement of the existing power in section 2(2)(aa) of the RPA 1985 (as read with the same additional provisions as outlined above).

89. The effect of such a determination is that the person's entitlement to remain registered as an overseas elector ends before the end of the registration period set out in section 1D(1)(a) or (3)(a) (as the case may be). The purpose of this power is to allow provision to be made setting out an appropriate procedure so that an ERO can ensure that only those persons who are entitled to be registered as overseas electors are so registered.

Justification for taking the power

90. As is currently the case with the existing power, the Government considers that it is appropriate to provide for these procedural steps in secondary legislation. This will allow for the procedure to be determined and implemented in consultation with the electoral community, as well as providing the means to update or alter that procedure in future if necessary as a result of experience gained from its implementation and use.

Justification for the procedure

91. As is currently the case with the existing power, the Government considers that the affirmative procedure continues to be the appropriate level of parliamentary scrutiny for the regulations which establish this procedure.

Clause 10(1) - new section 1D(4)(b) of the RPA 1985 - power to make regulations as to the determination by a registration officer that an overseas elector was registered, or the elector's entry was altered, as the result of an application made by someone else

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

92. New section 1D(4)(b) of the RPA 1985 (as read with section 27(2) of that Act, and section 201 of the RPA 1983) would allow regulations to be made which set out the procedural steps by which an ERO can determine that a person who is registered as an overseas elector was either registered, or had their register entry altered, as the result of an application made by some other person. This power is essentially a restatement of the existing power in section 2(2)(ab) of the RPA 1985 (as read with the same additional provisions as outlined above).

93. The effect of such a determination is that the person's entitlement to remain registered as an overseas elector ends before the end of the registration period set out in section 1D(1)(a) or (3)(a) (as the case may be). The purpose of this power is to allow provision to be made setting out an appropriate procedure so that an ERO can ensure that only those persons who are entitled to be registered as overseas electors are so registered.

Justification for taking the power

94. As is currently the case with the existing power, the Government considers it appropriate to provide for these procedural steps in secondary legislation. This will allow for the procedure to be determined and implemented in consultation with the electoral community, as well as providing the means to update or alter that procedure in future if necessary as a result of experience gained from its implementation and use.

Justification for the procedure

95. As is currently the case with the existing power, the Government considers that the affirmative procedure continues to be the appropriate level of parliamentary scrutiny for the regulations which establish this procedure.

Clause 10(1) - new section 1E(1)(e) of the RPA 1985 - power to prescribe information and/or requirements for renewal declarations for overseas electors

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

96. New section 1E(1)(e) of the RPA 1985 (as read with section 27(2) of that Act, and the definition of “prescribed” in section 202(1), and section 201, of the RPA 1983) would allow regulations to be made which prescribe other information which a registered overseas elector who is making a renewal declaration must provide as part of their declaration, and other requirements which that declaration must satisfy, in order for the duration of that person’s entitlement to be registered as an overseas elector to be extended. The additional information that a renewal declaration must contain, and the additional requirements that the declaration must satisfy, would supplement the main requirements described in new section 1E.
97. This power is broadly equivalent to the existing power in section 2(3) of the RPA 1985 (as read with the same additional provisions as outlined above) and the new power in new section 1C(1)(f) described above, although this power is narrower than those powers in that this power does not allow for requirements for the renewal declaration to be attested or for the charging of fees in respect of such attestations.
98. The purpose of the power is to ensure that sufficiently detailed information and sufficient supporting evidence related to an overseas elector’s renewal is required to be provided to the relevant ERO for their consideration.

Justification for taking the power

99. As is currently the case with the similar existing power and the equivalent power in new section 1C(1)(f) described above, the Government considers it appropriate to provide for these additional requirements in secondary legislation. This will allow for the specific additional information and other requirements to be determined and implemented in consultation with the electoral community. It will also allow those requirements to be updated as necessary in future as a result of experience following the initial implementation or as the result of the changing availability of types of supporting evidence.

Justification for the procedure

100. As is currently the case with the similar existing power and the equivalent power in new section 1C(1)(f) described above, it is considered by the Government that the affirmative procedure is the appropriate level of parliamentary scrutiny for regulations

which prescribe these additional requirements for overseas elector's renewal declarations.

Schedule 6, paragraph 4 - insertion into Schedule 2 RPA 1983 of new paragraph 3ZB (provision about the form of renewal declarations), paragraph 4(3) (provision about the transmission of renewal declarations), and paragraph 5(1AA) (provision about evidence required to satisfy registration officer as to overseas elector qualifications)

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

101. Section 53(1) of the RPA 1983 (as read with section 201 of that Act) allows regulations to be made regarding electoral registration and matters incidental to electoral registration or postal or proxy voting. Section 53(3) states that the regulation-making power in section 53(1) includes the power to make regulations in respect of the matters mentioned in Schedule 2 to the Act.
102. Paragraph 4 of Schedule 6 would add further matters to Schedule 2 to the RPA 1983 in respect of which regulations can be made. Firstly, paragraph 4(2) of Schedule 6 adds new paragraph 3ZB into Schedule 2. New paragraph 3ZB allows provision to be made regarding renewal declarations, including in particular provision about the form and contents of renewal declarations, and allows provision to be made which confer functions regarding renewal declarations on the Electoral Commission. The provision which can be made under new paragraph 3ZB is equivalent to the provision which can be made under existing paragraph 3ZA(1)(a) and (2)(c) of Schedule 2 in respect of overseas elector's declarations. The purpose of this power is to allow provision to be made in regulations to set the form in which a renewal declaration is to be made, and the details to be provided by a renewal declaration application.
103. Secondly, paragraph 4(3) of Schedule 6 adds new paragraph 4(3) into Schedule 2 to the Representation of the People Act 1983. New paragraph 4(3) allows provision to be made by regulations regarding the manner in which renewal declarations are to be transmitted to the relevant ERO for that officer's consideration and determination. It is equivalent to the power contained in existing paragraph 4(2) of Schedule 2, which allows provision to be made regarding the manner in which overseas elector's declarations are transmitted.
104. Finally, paragraph 4(4) of Schedule 6 adds new paragraph 5(1AA) into Schedule 2 to the RPA 1983. Existing paragraph 5(1A) allows provision to be made by regulations as to the evidence that must or may be required, or which is deemed to be sufficient or conclusive, of a person satisfying any of the requirements for qualifying as an overseas elector. New paragraph 5(1AA) allows provision to be made by regulations under existing paragraph 5(1A) which allows an ERO to seek such other kind of evidence as the ERO considers appropriate in order to demonstrate that a

person meets the requirements for qualifying as an overseas elector, or to deem such other evidence as sufficient or conclusive in respect of those requirements.

105. The purpose of new paragraph 5(1AA) is to allow provision to be made to ensure that an ERO is able to seek from a potential overseas elector and assess the appropriate evidence necessary to determine whether the person is qualified to be registered as an overseas elector.

Justification for taking the power

106. As is the case with the existing equivalent powers set out in Schedule 2 to the RPA 1983, the Government considers it appropriate to set this detail as to the form, contents and method of transmission of renewal declarations, and as to the evidential requirements for overseas elector's declarations, in secondary legislation in order to allow for consultation with the electoral community to take place, and a means for these detailed requirements to be updated in future. This would allow these aspects of the overseas elector registration and renewal process to be improved in light of experience and to reflect changes in the types of relevant evidence available.

Justification for the procedure

107. As is currently the case with the similar existing powers and generally in respect of the powers set out in Schedule 2 to the RPA 1983, the Government considers that the affirmative procedure is the appropriate level of parliamentary scrutiny for regulations which provide for these additional requirements for and procedures related to overseas elector's declarations and renewal declarations.

Schedule 6, paragraph 14(4) - power to specify a day for the purpose of transitional provisions related to overseas electors registered pursuant to pre-commencement applications

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

108. Paragraph 14(4) of Schedule 6 gives the power to the Secretary of State or the Minister for the Cabinet Office to make regulations to specify a date ("the specified day") in connection with the transitional arrangements set out in that paragraph. Where a person is registered as an overseas elector prior to commencement of the new overseas elector provisions set out in clause 10, paragraph 14 provides that that person is treated on and after commencement as being registered in accordance with the new provisions.

109. That person's registration lasts for 12 months from the date that the person's entry in the register of parliamentary electors first takes effect. However, if that end date would otherwise end before the specified day, paragraph 14(3)(b) of Schedule 6

provides that the person's registration as an overseas elector ends instead at the end of the specified day.

110. The purpose of the power is to allow a specified day to be set by regulations in order to facilitate the transition of the registration of existing overseas electors from the current legislative framework to the new framework. It ensures that those electors whose registration would end on or shortly after commencement of the new provisions will have more time to successfully complete and submit a renewal declaration if they wish their registration entitlement to continue.

Justification for taking the power

111. The transitional provisions in relation to overseas electors are set out on the face of the Bill in Schedule 6. This power is to allow the government to specify a suitable "specified day" for the purpose of these transitional provisions. The power is closely linked to the commencement power and is to ensure that the government can commence clause 10 and the associated transitional arrangements successfully at a time that is appropriate.

Justification for the procedure

112. As is usual with commencement powers, regulations made under this paragraph are not subject to any parliamentary procedure. Parliament will have approved the provisions and the transitional arrangements to be commenced by enacting them. The subsequent commencement by regulations, together with setting the associated specified day, enables the provisions to be brought into force at a convenient time.

Schedule 6, paragraph 17 - power to make supplemental or incidental provision related to paragraphs 13 to 16 of Schedule 6 (i.e. transitional provisions for overseas electors)

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Negative procedure

Context and Purpose

113. Paragraph 17 of Schedule 6 gives the power to the Secretary of State or the Minister for the Cabinet Office to make regulations containing provision which supplements or is incidental to the provision in paragraphs 13 to 16 of that Schedule. Those paragraphs set out the transitional arrangements regarding persons registered as or applying to be registered as overseas electors prior to the commencement of the expansion of the franchise for overseas electors (set out in clause 10). Those paragraphs also contain transitional arrangements for any postal voting entitlement held by such electors before that commencement date.

114. The purpose of the power is to allow additional supplementary or incidental provision to be made by regulations in order to facilitate the transition of the registration

of existing overseas electors from the current legislative framework to the new framework.

Justification for taking the power

115. The main transitional arrangements in relation to overseas electors are set out on the face of the Bill in Schedule 6. This power is to allow the government to make further supplemental or incidental provision by regulations linked to these transitional provisions where necessary. It is appropriate to allow such provision to be made by regulations in order to allow any additional issues arising from the transition to be resolved and consequently to ensure that the transition is effective. The power is limited in the sense that it is closely linked to the commencement of clause 10 and the associated transitional arrangements.

Justification for the procedure

116. Given the nature of the regulations, the Government considers it appropriate for the regulations to be subject to negative resolution procedure. Negative resolution procedure provides a sensible level of parliamentary oversight for any additional supplementary or incidental provision contained in such regulations.

EU Citizens' voting and candidacy rights

Clause 11 and Part 1 of Schedule 7 - new section 203A(2) - duty to add a country to the list in Schedule 6A

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Negative resolution procedure

Context and Purpose

117. Part 1 of Schedule 7 amends the franchise for local elections by replacing the current reference to “relevant citizen of the EU” with two new categories of EU citizens who will be eligible to register and vote (these changes are also made for PCC elections and other types of local elections by amendments in Part 2 of Schedule 7). The first new category is “qualifying EU citizen”, which has the meaning in new section 203A of the RPA 1983, and means a citizen of a country for the time being listed in Schedule 6A to that Act. (The second new category is “EU citizen with retained rights” and captures those already living in the UK as at 31st December 2020.) Subsection (2) confers a duty on the Secretary of State to amend Schedule 6A (the list of countries) by regulations to add a country to the list, if a treaty which confers voting and candidacy rights has been entered into with an EU Member State, and Parliamentary scrutiny under Part 2 of the Constitutional Reform and Governance Act 2010 (“the CRAG Act”) has been completed. *This is a Henry VIII power.*

Justification for taking the power

118. Taking this power to add countries to the list in Schedule 6A will enable voting and candidacy rights treaties to be implemented in domestic law in a timely fashion. Once a country is on the list, citizens of that country who are lawfully resident in England (and in Northern Ireland, as a result of amendments made by Part 3 of Schedule 7 to the Bill), will qualify to register and vote (subject to any other relevant conditions). Without this ability to add countries to the list, primary legislation would be required each time a new treaty was agreed, and that would likely result in a long delay to implementing any such treaty in domestic electoral law, and potentially corresponding delays in the EU Member State who is a party to the treaty guaranteeing voting and candidacy rights for British citizens living there.
119. Taking this delegated power enables a change of franchise to be effected through secondary legislation. This is unusual. However the Government considers this to be appropriate as the change flows from a treaty negotiation and Parliament will have had a prior opportunity to scrutinise the terms of the treaty under the procedure set out in the CRAG Act. A treaty which does not require, or undergo, such scrutiny will not result in the delegated power being exercised. Where it has undergone that scrutiny and has been approved for ratification, the Secretary of State will be required to bring forward legislation to add the country to the list in Schedule 6A. .
120. An analogous position exists in respect of qualifying Commonwealth citizens. A Commonwealth citizen is entitled to register and vote in elections in the UK. Commonwealth countries are added to, or removed from, the list in the British Nationality Act 1981 by secondary legislation (see section 37(2)), and this flows through to their voting and candidacy rights in electoral and local government law.
121. Whilst this is a Henry VIII power, it is very narrowly drawn and can only be used to add a country to Schedule 6A, and only in the prescribed circumstances. It cannot be used to make any other amendments to the Bill or any other primary legislation.

Justification for the procedure

122. The choice of negative procedure is considered by the Government to be appropriate for this delegated power given that the treaty will already have undergone parliamentary scrutiny under the CRAG Act, and must have been approved by each House of Parliament under that process, before regulations can be made under this power. A further affirmative process is not considered necessary for the instrument which adds the country to the list, when Parliament has already considered and approved the treaty, in circumstances where it will be clear that the result of such approval will be a duty on the Secretary of State to bring forward legislation with the intention of adding the country to the list in Schedule 6A. In addition, the negative procedure means that the treaty obligations can be implemented in a timely way.

Clause 11 and Part 1 of Schedule 7 - new section 203A(3) - power to remove a country from the list in Schedule 6A

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative resolution procedure

Context and Purpose

123. The context is set out above in relation to section 203A(2) which contains a duty to add a country to the list in Schedule 6A by regulations. New section 203A(3) contains a related power to remove a country from that list. This power arises only where the UK is no longer a party to the treaty with that country which resulted in them being added to the list in the first place. This delegated power is discretionary, so that the Government has some control over when, or whether, to seek to remove the country, to reflect the particular circumstances in play. *This is a Henry VIII power.*

Justification for taking the power

124. Taking this power ensures that where, for some reason, a treaty is no longer in force (for example, if there has been a breach by the other party leading to the UK's withdrawal from the treaty), it is possible to reflect this position in domestic law by removing that country from the list. The result of such removal would be that citizens of that country resident here will no longer have voting and candidacy rights (unless they fall within another eligible group (for example, EU citizens under new section 203B of the RPA 1983, which comprises those with 'retained' rights)).

125. Without this power, those rights would remain in place in domestic law until they could be removed by primary legislation, even though the international obligation underpinning them had ceased to have effect, and the other party to the treaty may no longer be providing such rights to British citizens resident in their country.

126. Again, whilst this is a Henry VIII power, it is very narrowly drawn and can only be used to remove a country from Schedule 6A, and only in the prescribed circumstances. It cannot be used to make any other amendments to the Bill or any other primary legislation.

Justification for the procedure

127. The choice of affirmative procedure reflects the fact that the effects of exercising this power to remove a country are significant in terms of removing voting and candidacy rights. In contrast with the duty to add a country to the list by a negative resolution instrument (on the basis that parliamentary scrutiny has already taken place under the procedure set out in the CRAG Act), the affirmative resolution procedure for the power to remove a country will enable parliament to scrutinise and approve such removal.

Clause 11 and Part 4 of Schedule 7 - power to make transitional or saving provision

Power conferred on: Secretary of State

Power exercised by: Regulations

Parliamentary Procedure: Affirmative resolution procedure

Context and Purpose

128. The provision made by Parts 1 and 2 of Schedule 7 will have the effect of conferring and removing voting and candidacy rights for certain EU citizens in certain elections. A transitional provision has been included in Part 4 of Schedule 7 to preserve the position of EU citizens holding elected office who may otherwise become ineligible following commencement of the changes made by Parts 1 to 3 of Schedule 7, enabling them to complete their term. The power in paragraph 11 to make transitional or savings provision by regulations will allow other arrangements to be put in place to implement these changes in an ordered and fair way. For example, provision may be needed about when and how to de-register people from electoral registers; about how any changes close to the date of an election should be applied or not applied; and about how any changes affect candidates at an election. *This is a Henry VIII power, to the extent that it enables provision modifying the effect of any primary legislation (including the Bill).*

Justification for taking the power

129. As explained above, it is important to be able to implement and manage these changes to voting and candidacy rights in a way that is fair and ordered, and that may mean adjusting how the rules would otherwise apply in certain circumstances and for certain groups.

130. The ability to be able to modify the effect of other statutory provisions is important as some of the voting and candidacy rules are set out in other legislation, including primary, and it may be necessary to make provision changing their effect in order to properly make the transitional or savings provision that are appropriate.

Justification for the procedure

131. The choice of affirmative procedure reflects that transitional and savings provisions may have important effects on how the changes made by Schedule 7 to voting and candidacy rights apply to particular groups or circumstances. The Government considers that the affirmative procedure will allow parliament the opportunity to scrutinise and approve these arrangements, including any modifications to the effect of any other primary legislation.

Powers in Part 3 (the Electoral Commission)

The Electoral Commission

Clause 12 - new sections 4A, 4B and 4E of the Political Parties, Elections and Referendums Act 2000 - power to designate statement of strategic priorities for the Electoral Commission, as well as power to amend or replace that statement

Power conferred on: Secretary of State

Power exercised by: Statement of strategic priorities

Parliamentary Procedure: Statement laid before Parliament and must be approved by resolution of each House before the end of a 40-day period

Context and Purpose

132. Clause 12 inserts new provisions into the Political Parties, Elections and Referendums Act 2000 (“PPERA”), giving the Secretary of State the power to designate a statement of strategic and policy priorities to which the Electoral Commission (EC) must have regard in exercising its functions. This will be subject to approval by Parliament.

133. The EC is currently subject to limited accountability to Parliament and there are a number of provisions being introduced to provide for more robust examination of the EC’s exercise of its functions. Whilst not a power to make secondary legislation, the power to issue the statement may be considered a form of delegated power.

Justification for taking the power

134. The priorities to be included in the statement will inevitably change over time and therefore cannot be set out in primary legislation. It is therefore appropriate that this is a statement which can be reviewed and updated periodically, by following the procedures set out in new sections 4C to 4E of PERA, including laying a draft for 40 days before Parliament, which must be approved by a resolution of each House prior to designation.

135. Statutory consultation is also required, with the EC itself, relevant Parliamentary committees, and (so far as the statement relates to functions in devolved areas) the Scottish Ministers and Welsh Ministers.

Justification for the procedure

136. The Government considers that, given the nature and constitutional significance of the responsibilities and functions of the Electoral Commission, an approach akin to the affirmative procedure should be followed for approval by Parliament of the statement.

Powers in Part 4 (Regulation of expenditure)

Notional expenditure - codes of practice

Clause 17(1)(a) - amendment of power to issue a code of practice, which is prepared by the EC, under paragraph 14 of Schedule 4A RPA 1983

Power conferred on: Secretary of State

Power exercised by: Order

Parliamentary Procedure: Draft code laid before each House of Parliament, and either House can resolve not to approve the draft within a 40-day period after laying. The code is then brought into force by an order that is not subject to any parliamentary procedure.,

Context and Purpose

137. Under existing Part 3 of Schedule 4A, the EC can prepare a code of practice giving guidance about the meaning of election expenses. The amendments made by this clause are to make it clear that the code of practice can cover the application of the rules in relation to expenses incurred for the purposes of a candidate's election.

Justification for taking the power

138. At present there is some confusion as to what the codes of practice can cover. This amendment to the power to issue such a code is to remedy that and ensure that the codes of practice are sufficiently broad and fully serve the purpose of explaining the rules on spending.

Justification for the procedure

139. The amendment does not change the parliamentary procedure for the code of practice or the order that brings it into force.

Clause 17(1)(b) - amendment of paragraph 14(7)(b) of Schedule 4A RPA 1983 - power to designate the date on which a code of practice under paragraph 14 comes into force

Power conferred on: Secretary of State

Power exercised by: Order

Parliamentary Procedure: The order that brings the code into force is not subject to any parliamentary procedure

Context and Purpose

140. This provision amends paragraph 14(7)(b) of Schedule 4A to the RPA 1983 simply to specify that the order that brings the code of practice into force is a statutory instrument.

Justification for taking the power

141. This is a minor amendment to an existing power. At present the legislation does not specify that the order bringing the code of practice into force is a statutory instrument. This has led to some confusion as to the procedure and publication process for the order. We understand that this is an omission (unlike other electoral legislation there is no general provision in the RPA 1983 specifying that orders made under it are statutory instruments). Therefore this amendment is simply to remedy that omission

Justification for the procedure

142. See above. There is no change to the procedure for the order, apart from that it is to be in the form of a statutory instrument for consistency.

Clause 17(2)(a) - amendment of power to issue a code of practice by the EC under paragraph 14A of Schedule 4A to the RPA 1983

Power conferred on: Welsh Ministers

Power exercised by: Order

Parliamentary Procedure: Draft code laid before the Senedd Cymru, and the Senedd can resolve not to approve the draft within a 40-day period after laying. The code is then brought into force by an order that is not subject to any Senedd Cymru procedure.

Context and Purpose

143. Under existing Part 3 of Schedule 4A to the RPA 1983, the Electoral Commission can prepare a code of practice giving guidance about the meaning of election expenses. The amendments made by this clause are to make it clear that the code of practice can cover the application of the rules in relation to expenses incurred for the purposes of a candidate's election.

Justification for taking the power

144. At present there is some confusion as to what the codes of practice can cover. This amendment to the power to issue such a code is to remedy that and ensure that the codes of practice are sufficiently broad and fully serve the purpose of explaining the rules on spending.

Justification for the procedure

145. The amendment does not change the procedure in the Senedd Cymru for the code of practice or the order that brings it into force.

Clause 17(2)(b) - amendment of paragraph 14A(7)(b) of Schedule 4A RPA 1983 - power to designate the date on which a code of practice under paragraph 14A comes into force

Power conferred on: Welsh Ministers

Power exercised by: Order

Parliamentary Procedure: No procedure

Context and Purpose

146. This provision amends sub-paragraph 14A(7)(b) of Schedule 4A to the RPA1983 simply to specify that the order that brings the code of practice into force is a statutory instrument.

Justification for taking the power

147. This is a minor amendment to an existing power. At present the legislation does not specify that the order bringing the code of practice into force is a statutory instrument. This has led to some confusion as to the procedure and publication process for the order. We understand that this is an omission (unlike other electoral legislation there is no general provision in the RPA 1983 specifying that orders made under it are statutory instruments). Therefore this amendment is simply to remedy that omission

Justification for the procedure

148. See above. There is no change to the procedure for the order, apart from that it is to be in the form of a statutory instrument for consistency.

Clause 17(3) - amendment of section 156(3) PPERA - removal of parliamentary procedure for orders made under paragraph 3(7) of Schedule 8 or paragraph 3(7) of Schedule 8A to PPERA

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Order

Parliamentary Procedure: No procedure

Context and Purpose

149. This provision amends section 156 of PPERA so that the order bringing the code of practice under paragraph 3 of Schedule 8 to PPERA into force is subject to no parliamentary procedure rather than being subject to the negative resolution procedure.

Justification for taking the power

150. This is an amendment to the procedure in relation to an existing power.

Justification for the procedure

151. The code of practice prepared by the EC must be submitted to the Secretary of State for approval. The Secretary of State may approve the draft code either without modification or with such modifications as he may determine. Once the Secretary of State has approved the draft code he must lay it before each House of Parliament. There is then a 40 day period in which either House can resolve not to approve the draft. This procedure for scrutinising the code of practice is equivalent to the negative resolution procedure. If no resolution is made within the 40 day period the Secretary of State shall issue the code in the form of the draft laid before Parliament and the code shall come into force on such date as the Secretary of State may by order appoint. As the code of practice is already subject to a parliamentary procedure it is not considered necessary by the Government to have a further parliamentary procedure for the order that brings it into force. This amendment brings the procedure for bringing the code of practice into force into line with other commencement orders and also the procedure for other codes of practice prepared by the Electoral Commission e.g the code of practice issued under the RPA (see above) but also the codes of practice in relation to the recall of MPs, police and crime commissioner elections etc.

Controlled expenditure of third parties

Clause 23 - Third parties capable of giving notification for purposes of Part 6 of PPERA

Power conferred on: Secretary of State or the Minister for the Cabinet Office (s.159A PPERA)

Power exercised by: Order

Parliamentary Procedure: affirmative procedure

Context and Purpose

152. Clause 23 limits the opportunities for third parties (and in particular non-UK third parties) to incur campaign spending (known as controlled expenditure) by restricting spending to those categories of third parties listed in s.88(2) and those exempted in new section 89A(1)(b) of PPERA. Spending limits are used generally as a mechanism to provide a level playing field for all campaigners, and specifically here for third party campaigners. Those categories of third parties not listed are limited to a maximum spend of £700, and those categories listed will be able to spend a maximum of £10,000 before they are required to notify the Commission. Becoming a recognised third party through notification to the EC therefore enables parties to access higher spending limits and as a consequence increases their ability to campaign. This provision gives the Secretary of State the power by order to amend the list of categories of third parties able to give a notification under s.88(1) of PPERA, and thereby access more meaningful spending limits. This would allow the adding, removing or varying of a description of a category of third parties to that list. *This is a Henry VIII power.*

Justification for taking the power

153. It is intended that section 88(2) will constitute a comprehensive list of categories of third parties who are eligible to notify the EC enabling them to access the more meaningful campaign spending limits. The introduction of clause 22 means exclusion from the list will significantly restrict a category of third parties' ability to campaign. Restricting access to campaigning has the potential to impinge on freedom of expression (Article 10 of the European Convention on Human Rights) and the right to enjoy a free election (Article 3 of the First Protocol of that Convention). Therefore, it is important that if a legitimate category of third parties emerges, it can be added quickly to the list of categories to ensure these restrictions on campaigning remain proportionate and no more extensive than is necessary to meet their aim of preventing campaigning by those with no genuine stake in the UK. This power will, among other things, provide an important safeguard in this regard as it will enable modification of the list of categories to ensure that all third parties that have a legitimate interest in or connection with the UK are able to access campaign spending limits.

Justification for the procedure

154. The third party spending rules are contained within primary legislation and the power is limited to the amending of the list of categories of third parties contained within s.88. However, in recognition of the human rights implications; the importance of

determining who can or cannot access campaign spending limits; the potential impact on elections; and that this is a power to amend primary legislation, the Government considers that the affirmative procedure should apply, to ensure the appropriate degree of parliamentary scrutiny. The default position for regulations under PPERA is that they are subject to a negative resolution procedure (by virtue of s.156(2)).

Powers in Part 5 (Disqualification of offenders from holding elective office etc.)

Clause 32 - Power to amend the list of relevant offences in Schedule 8

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and Purpose

155. Clause 26 would allow a court to impose a 5 year disqualification order where an offender aged 18 or over is convicted of a relevant offence that the court is satisfied was aggravated by hostility related to: candidates or future candidates (both terms defined in clause 28); substitutes or nominees in relation to the Northern Ireland Assembly and Northern Ireland district council members; campaigners (defined in clause 30) or the holders of relevant elective offices ('holders' is defined in clause 29, and "relevant elective office" is defined in clause 33). The list of relevant offences is contained in Schedule 6. The purpose of this power in clause 32 is to allow amendments to be made to the list of offences in that Schedule. A similar power is contained in paragraph 16 of Schedule 8 to the Sentencing Act 2020, which allows the list of offences in Schedule 13 to that Act (for which a special custodial sentence under section 265 or 278 of that Act has to be imposed) to be varied. *This is a Henry VIII power.*

Justification for taking the power

156. The Government considers that it is necessary and appropriate to provide for a power to vary the list of offences in Schedule 8 via secondary legislation. This will allow the list of relevant offences to be kept up to date over time as new offences are created or existing offences are amended or repealed, and therefore to ensure that the legislation continues to work as intended.

Justification for the procedure

157. As is currently the case with the similar existing power in Schedule 8 to the Sentencing Act 2020 described above, the Government considers that the affirmative procedure is the appropriate level of parliamentary scrutiny for regulations which add to, vary or omit offences from the list of relevant offences in Schedule 8 to this Bill, given that whether or not an offence is included in the list determines whether a sentencing court can impose a disqualification order.

Powers in Part 6 (Information to be included with electronic material)

Clause 35(6) - definitions relating to electronic material and publication

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: affirmative

Context and purpose

158. At present there are rules in electoral law which provide that printed election publications must contain the address of both the printer and publisher of the material. This is called an 'imprint'. Imprints identify who is trying to influence the public via campaign material. Part 6 of the Bill creates a new regime for election and referendum material and wider political material which is in electronic form. The clause sets out definitions for the new digital imprint regime for "electronic material". The name and address of the promoter and the name and address of the person on whose behalf the material is published (who is not the promoter) (together, the 'imprints') are to be required on electronic material (as defined in the provisions) which are made available to the public at large or any section of the public ('published'). The clause provides a power, exercised through regulations, to modify the definitions of "electronic material", the "promoter" or "publish" that have effect for the purposes of this Part. *This is a Henry VIII power.*

Justification for taking the power

159. This power allows the relevant definitions to be updated to incorporate any technological advances and resulting impact on political campaigning. Technology can advance rapidly and it is important that the legislation can still work in the future. This will ensure that transparency can be maintained thus enabling individuals to assess the credibility of political information they receive. As both technology and political campaigning is moving at pace, and this is a new regime, these definitions may need adjusting more often than would be possible if this had to be done by primary legislation. Clause 55 means that the definitions can only be modified where the regulations give effect to a recommendation by, or after consultation with the Electoral Commission, and by affirmative parliamentary procedure.

Justification for the procedure

160. The regulations are subject to the affirmative procedure (see clause 55), and, as stated above, can only be made where the regulations give effect to a recommendation by, or after consultation with the Electoral Commission. This approach should sufficiently limit what could be potentially wide powers and allow for proper scrutiny of what will be amendments to primary legislation.

Clause 37 - requirement to include information with electronic material

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative

Context and purpose

161. This provision sets out the requirement to include certain information (i.e. the name and address of the promoter of the material and any person on behalf of whom the material is being published if not the promoter) on electronic political material. This power allows regulations to modify the content of that information. This is not an unusual approach within PPERA or the RPA 1983 (for example, sections 126(6), 143(6) of PPERA; section 110(7) of the RPA 1983 and sections 18(1)(a) and 2(a) of the Recall of MPs Act 2015). *This is a Henry VIII power.*

Justification for taking the power

162. This provision follows the approach taken previously in PPERA and the RPA 1983 (as set out in the paragraph above). It will allow the imprint to be amended to keep pace with technological and political campaigning advancements. Given the rapidity with which these are emerging, it is likely that such adjustments will need to be made regularly, such that it is not feasible to implement these by way of primary legislation.

Justification for the procedure

163. The Government considers that the affirmative procedure provides the appropriate level of Parliamentary scrutiny for these amendments to primary legislation. Amendments can only be made where the regulations give effect to a recommendation by, or after consultation with the Electoral Commission.

Clause 42 - exceptions to section 3

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative

Context and purpose

164. Clause 42 sets out exceptions from the requirement for an imprint. For example it provides that imprints are not required on any party political broadcast included by a broadcaster in its broadcasting services. This is because party political broadcasts are subject to existing legislation (the Communications Act 2003 and BBC Agreement) and rules, and therefore no additional regulation is necessary. The power will enable regulations to be made which add, modify or remove cases to which the requirement for an imprint applies. *This is a Henry VIII power.*

Justification for taking the power

165. This approach replicates those already taken in sections 143(7)(c) and 126(7)(c) of PPERA and section 110(8)(c) of the RPA 1983. This allows for the adding, modifying or removing of cases, if for example, it becomes apparent other regulation applies to the same material (similar to the broadcasting example above) thereby having the ability to avoid unnecessary duplication, potentially conflicting rules or material being subject to multiple rules. The power allows for the updating of the regime to keep pace with any technological changes that occur, which may alter the need for an imprint, for example electronic material related to journalism which extends beyond websites or mobile applications. It also allows for any adjustments required as a new regime is used in practice, which may need to be amended from time to time to accommodate, for example new regulation applying to specific advertising which would mean that these rules need not apply.

Justification for the procedure

166. The power is limited by the requirement to give effect to recommendations by the EC or after consultation with the EC. As this power is to amend primary legislation it is considered by the Government that the affirmative procedure is most appropriate.

Clause 49 - guidance

Power conferred on: The EC (to prepare guidance) and the Secretary of State or the Minister for the Cabinet Office (to approve it).

Power exercised by: Guidance

Parliamentary Procedure: Guidance will be laid under an equivalent of the negative procedure but coming into force will be by Order with no parliamentary procedure.

Context and purpose

167. Clause 49 provides for the preparation and issuing of guidance about the operation of the digital imprints regime and the exercise of the functions by the EC or a constable in relation to a breach or suspected breach of the rules. The EC and the police must have regard to the guidance in exercising their enforcement functions. The guidance is prepared and issued by the EC, but subject to approval and modification by the Secretary of State. The guidance may be revised by the EC on its own initiative or if directed to do so by the Secretary of State. Any revisions would be subject to the same procedure.

Justification for taking the power

168. The creation of a new scheme will require a level of detailed supporting guidance to supplement the legislation. The EC already provides guidance in relation to the imprint regime for printed documents. The principles and main policy intent are provided for within the Bill. This approach is not uncommon within electoral law and replicates the approach taken in paragraph 3, Schedule 8 to PPERA.

Justification for the procedure

169. Although the guidance is not made by statutory instrument, an equivalent of the negative resolution procedure applies so that either House of Parliament may resolve not to approve the draft guidance. Whilst guidance does not routinely require parliamentary scrutiny in light of the subject matter and fact that the EC is accountable to the Speakers' Committee, the Government considers that it is appropriate in this case.

170. As the guidance is already subject to a parliamentary procedure, the Government does not consider it necessary to have a further parliamentary procedure for the order that brings it into force. This is consistent with other commencement orders and also the procedure for other codes of practice prepared by the EC e.g the code of practice in respect of campaign expenses issued under the RPA (see above) but also the codes of practice in relation to the recall of MPs, police and crime commissioner elections etc.

Powers in Part 7 (General)

Clause 57 - power to amend references to subordinate legislation

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: Affirmative procedure

Context and purpose

171. This clause provides a power to allow amendments to the Bill, or to provisions amended by the Bill, as a consequence of the amendment or revocation of amendments to any secondary legislation referenced in the Bill. This would allow, for example, a reference to a statutory instrument that is replaced in future to be updated. This is a Henry VIII power.

Justification for taking the power

172. There are a number of provisions in the Bill, and in provisions inserted by the Bill into other legislation, that refer expressly to secondary legislation which could be revoked, or amended in a way that means that references to them, and therefore the effect of the provisions, no longer work. The powers to make that secondary legislation do not in every case include powers to update any connected primary legislation, meaning that, without taking this power the provisions would not be able to be updated in consequence.

Justification for the procedure

173. The power is limited to amending provisions in or amended by the Bill in consequence only of the amendment or revocation of any of the referenced secondary legislation within it so that, as set out above, the references can be maintained. As this power is to amend primary legislation it is considered by the Government that the affirmative procedure is appropriate.

Clause 59 - commencement and transitional, transitory or saving provisions

Power conferred on: Secretary of State or the Minister for the Cabinet Office

Power exercised by: Regulations

Parliamentary Procedure: No procedure

Context and Purpose

174. This clause enables provisions of the Bill to be commenced by regulations, and for such regulations to contain transitional, transitory or saving provisions.

Justification for taking the power

175. This is a standard commencement power, needed to provide a degree of control over when different parts of the Bill are brought into force. Many parts of the Bill will need considerable implementation and preparation in advance of them taking effect.

Justification for the procedure

176. The negative procedure is standard for a commencement power of this sort.

Cabinet Office

5 July 2021