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Scottish Parliament (Assistance for Political Parties) Bill

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The Scottish Parliament (Assistance for Political Parties) Bill was introduced in the Parliament on 24 June 2020 by Bill Kidd MSP as Convener of the Standards, Procedures and Public Appointments Committee.

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Executive Summary

The [Scottish Parliament \(Assistance for Political Parties\) Bill](#) was introduced in the Parliament on 24 June 2020. The Bill is a Committee Bill introduced by the Standards, Procedures and Public Appointments (SPPA) Committee.

The Bill seeks to bring responsibility for setting the terms of funding to registered political parties (often referred to as 'Short money') within the responsibility of the Scottish Parliamentary Corporate Body (SPCB) by transferring responsibility for setting the terms of the scheme from Scottish Ministers to the SPCB.

At present, Scottish Ministers are able to set the terms of the payments to support opposition parties although the scheme is funded and administered by the SPCB.

If the proposal in the Bill is accepted by the Parliament it would mean that the SPCB would have responsibility over the funding, administration and the terms of the scheme.

Prior to the Bill being introduced, the Scottish Government indicated that it was content for the SPCB to assume responsibility for the scheme in line with the provisions in the Bill ¹.

This briefing sets out the background to the Bill, describes the main changes, and looks at the next steps. The [Explanatory Notes to the Bill](#) should be consulted for details on each provision in the Bill.

Background to the Bill

The [Parliamentary Bureau](#) invited the SPPA Committee to propose and introduce a Committee Bill to transfer responsibility for setting the terms of the funding arrangements for opposition parties from Scottish Ministers to the SPCB.

The SPPA Committee published its [proposal for a Committee Bill - Scottish Parliament \(Assistance for Political Parties\) Bill](#) on 5 February 2020.

“ In drawing up plans to introduce the bill, the committee consulted MSPs, political parties, the Parliamentary Bureau, the Scottish Government and the Electoral Commission. Their responses, which have been published on the committee’s web page, were supportive of the policy. Significantly, the Scottish Government has indicated that it is content that its responsibility in the area be transferred to the Scottish Parliamentary Corporate Body.”

Bill Kidd MSP, Convener, SPPA Committee, Chamber debate on the Bill proposal, 25 February 2020

What is Short money?

'Short money' is funding to opposition parties. Such funding was first introduced in 1975 in the House of Commons. Its proposals were largely developed by then UK Minister Edward Short, later Baron Glenamara who, speaking on the scheme in a statement to the House of Commons on Members' Allowances in 1974 said:

“ A more immediate need is to provide additional support for the Opposition parties in Parliament - support which they certainly require if they are to play their full part here. The then Opposition and, I believe, the whole House benefited greatly from the Rowntree scheme, but more permanent arrangements are now necessary...The main areas of support which we believe are needed are in the staffing of the Opposition Leader's and Chief Whip's offices, and in research assistance for shadow Front Bench spokesmen. The smaller parties also need staff support, but, naturally, on a smaller scale. We take the view that the parties should decide their own staffing arrangements, and I shall propose, therefore, that they be allocated funds for this purpose, borne upon the House Vote. These would be calculated by a formula based on the number of seats and votes won, the details of which I should like to discuss further, with the parties opposite after the recess.”

Kelly, 2020²

Short money still has three components and is used:

- to assist an opposition party in carrying out its Parliamentary business
- to provide funding for the opposition parties' travel and associated expenses
- to fund some of the running costs of the Leader of the Opposition's office.

The [Scotland Act 1998](#) ("the Act") includes provision on Short money. [Section 97 of the Act](#) provides for assistance for opposition parties. The term Short money was adopted at the Scottish Parliament as at the House of Commons to refer to these payments to opposition parties.

Although the payments are usually made only to opposition parties, there are instances where a junior party in a coalition may receive some payment. For further information about the legislative basis of this see the section of this briefing titled '[What is the situation at present?](#)'.

How much do opposition parties receive?

At the UK Parliament, Short money is calculated on a fixed amount per member and is then topped up by an additional amount per 200 votes received. The scheme is administered under a [resolution of the House of 26 May 1999](#), as amended by a [resolution of 23 March 2016](#), and consolidated and updated by the [Members Estimate Committee](#).

“

- *General funding for Opposition Parties* – the amount payable to qualifying parties from 1 April 2019 is £18,044.80 for every seat won at the last election plus £36.04 for every 200 votes gained by the party.”
- *Travel Expenses for Opposition Parties* – the total amount payable under this component of the scheme for the financial year commencing on 1 April 2019 is £198,231.77 apportioned between each of the Opposition parties in the same proportion as the amount given to each of them under the basic funding scheme set out above.”
- *Leader of the Opposition’s Office* – under the third component of the scheme, £840,712.01 is available for the running costs of the Leader of the Opposition’s office for the financial year commencing on 1 April 2019.”

Kelly, 2020³

Each component is updated annually on 1 April by the percentage increase in the consumer price index in the year to the previous December.

The amount of Short money opposition parties receive in the Scottish Parliament is set out in article 2 of [The Scottish Parliament \(Assistance for Registered Political Parties\) Order 1999](#).

“ (2) Subject to article 3(3), the total amount of payments that may be made under this Order to any qualifying party in any period shall not exceed the relevant amount for that period multiplied by the number of members of the Parliament who are connected with that party at the beginning of that period. (3) For the period beginning with 1st July 1999 and ending with 31st March 2000 the relevant amount shall be the sum of £5,000. (4) For the period of one year beginning with 1st April 2000 the relevant amount shall be the sum of £5,000 but increased by the appropriate percentage for that period and if the resulting amount is not a whole number of pounds and pence it shall be rounded to the nearest penny. (5) For any subsequent period of one year beginning with 1st April the relevant amount shall be the relevant amount for the previous period increased by the appropriate percentage for that subsequent period and if the resulting amount is not a whole number of pounds and pence it shall be rounded to the nearest penny. (6) The appropriate percentage for any period is the percentage by which the retail prices index for the month of March immediately preceding that period has increased compared with the retail prices index for the previous March.”

In a Scottish Parliament debate on 2 June 1999, opposition party MSPs raised their concerns that the provision of Short money was inadequate, particularly when compared to Westminster ⁴ .

“ There is no doubt that by dramatically reducing the amount of Short money available to parties, which is, in effect, what the Westminster Government's order does, the Labour party is attempting to ensure that the work of the Opposition parties is undermined. If that measure is put alongside the way in which the discussion on allowances has taken place, there is a concerted attempt to undermine not only the work of Opposition parties but the democratic process.”

Michael Russell MSP, [Official Report, 2 June 1999](#)

Annabel Goldie MSP of the Conservative party stated during the same debate that:

“ Short money exists to allow Opposition parties to do their job effectively. The amount that is currently available at Westminster is £10,000 per member, with a vote supplement. New Labour is halving that for the purposes of the Scottish Parliament.”

Annabel Goldie MSP, [Official Report, 2 June 1999](#)

Henry McLeish MSP, then Minister for Enterprise and Lifelong Learning, responded to the criticisms:

“ Section 97(3) provides for the possibility of giving that money to parties in a coalition government. I am also struck by representations that were made to the Neill committee by a very senior member of the Scottish National party, who said: "One of the options to be considered if all parties are minority parties is whether the Scottish equivalent of Short money might in fact be available to all parties, regardless of whether they are in government or in opposition.””

Henry McLeish MSP, [Official Report, 2 June 1999](#)

Analysis by The Institute for Government has indicated that the annual entitlement per MSP in 2019/20 was £8,700 ⁵ .

“ In 2018/19 (when the SNP was the governing party) the Conservative Party received £263,000, Labour £203,000, the Green Party £51,000 and the Liberal Democrats £42,000.”

The Institute for Government, 2020⁶

On the 2019/20 levels, the difference in the provision of Short money per member between MSPs (£8,700) and MPs (£18,044.80) is £9,344.80. This means that the Short money provision per member at the Scottish Parliament is 48% of that received per member at the House of Commons. It should be noted that Short money is not paid direct to MSPs or MPs. It is paid to opposition parties, but calculated by reference to the number of MSPs or MPs that the party has.

How was the current framework established?

Section 97 of the Scotland Act 1998 enables an Order in Council to provide for the SPCB to make payments to opposition parties.

“ Her Majesty may by Order in Council provide for the Parliamentary corporation to make payments to registered political parties for the purpose of assisting members of the Parliament who are connected with such parties to perform their Parliamentary duties.”

The Scotland Act 1998, section 97(1)

Orders in Council are made by Her Majesty The Queen in the Privy Council on the advice of Ministers. Orders in Council must be formally approved in person by the Monarch, but they are drafted by the government.

Orders in Council are a form of secondary legislation. As explained above, they are made by the Monarch rather than by Ministers as is usually the case with secondary legislation. Orders take the form of a statutory instrument. The Scotland Act 1998 originally provided that an Order in Council under section 97 be subject to 'type A' procedure. That is to say it would need to be approved by both Houses of the UK Parliament as well as by the Scottish Parliament.

“ *Type A*: No recommendation to make the legislation is to be made to Her Majesty in Council unless a draft of the instrument —(a)has been laid before, and approved by resolution of, each House of Parliament, and (b)has been laid before, and approved by resolution of, the Parliament.”

[Scotland Act 1998, Schedule 7 paragraph 2](#)

The [Scotland Act 2016](#) changed the procedure for Orders in Council under section 97 to 'type D' meaning that a draft instrument need only be approved by the Scottish Parliament.

“ *Type D*: No recommendation to make the legislation is to be made to Her Majesty in Council unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.”

[Scotland Act 1998, Schedule 7 paragraph 2](#)

The [Scottish Parliament \(Assistance for Registered Political Parties\) Order 1999](#) which came into force on 1 July 1999 is the only Order to have been made under section 97 of the Scotland Act 1998. As such, the Order has governed the arrangements for payments to opposition parties at the Scottish Parliament since the Parliament was established in 1999.

The Order also provided that members connected with the then Scottish Executive (now Scottish Government) could receive Short money if the number of MSPs connected with the party who are also members of the Scottish Executive or junior Scottish Ministers is not more than one fifth of the total number of members of the Scottish Executive and junior Scottish Ministers. For the purposes of calculating Short money, any MSPs connected with the party who are also members of the Scottish Executive or junior Scottish Ministers are disregarded.

So, for example, if a party that has 10 MSPs is in opposition, its Short money will be calculated as 10 times the per member amount. If the party becomes a junior coalition partner and 3 of its MSPs become Ministers, it would still qualify for Short Money so long as those 3 Ministers did not amount to more than a fifth of the Ministers in the Government (i.e. if there were 15 or more Ministers in total); but the party's Short money total would fall to 7 times the per-member amount.

“ (1) For the purposes of section 97(2) of the Act (which provides that no payment may be made in pursuance of this Order to a party if any of the members of the Parliament who are connected with it are also members of the Scottish Executive or junior Scottish Ministers), the fact that any members of the Parliament who are connected with a registered political party are also members of the Scottish Executive or junior Scottish Ministers shall, in the case of that party, be disregarded in the circumstances specified in paragraph (2). (2) Those circumstances are that the total number of members of the Parliament connected with that party who are also members of the Scottish Executive or junior Scottish Ministers does not exceed one fifth of the total number of members of the Scottish Executive and junior Scottish Ministers. (3) For the purposes of determining under article 2(2) the total amount of payments that may be made to a qualifying party in any period, the number of members of the Parliament who are connected with that party at the beginning of that period shall be reduced by the number of such members who are also at that time members of the Scottish Executive or junior Scottish Ministers.”

[The Scottish Parliament \(Assistance for Registered Political Parties\) Order 1999](#), Article 3

The Order was made on the advice of UK Ministers who sought the views of the then Scottish Executive. This reflects the fact that at the time of the 1999 Order, the procedure was required to be 'type A'. If an Order were to be made now it would be drafted on the advice of Scottish Ministers alone reflecting the change to 'type D' procedure.

The Scotland Act 1998 originally protected section 97 from modification. However, [The Scotland Act 1998 \(Modifications of Schedules 4 and 5\) Order 1999](#) amended Schedule 4, Part 1, paragraph 4 to remove the restriction, meaning that section 97 came within the Scottish Parliament's competence.

What change does the Bill propose?

The Bill provides for section 97 of the Scotland Act 1998 to be amended. Rather than payment to opposition parties being provided for by an Order in Council it would be addressed by a Parliamentary resolution (a written motion that has been agreed to by the Scottish Parliament).

As such, the terms of the Short money scheme in future would be subject to the agreement of the Parliament rather than by direction of the Scottish Ministers.

“ (1) The Parliament may by resolution make provision for payments to be made to registered political parties for the purpose of assisting members of the Parliament who are connected with the parties to perform their Parliamentary duties. (2) A resolution under subsection (1) may— (a) confer functions on the Parliamentary corporation, (b) determine, or make provision for determining, the circumstances in which a member of the Parliament and a registered political party are to be regarded for the purposes of the resolution as connected, (c) make different provision for different purposes.”. ”

Scottish Parliament (Assistance for Political Parties) Bill, section 1

The Bill does not propose changes to the Short money scheme itself. The Order in Council which provides the terms of the scheme at present would remain unchanged until such time as a Parliamentary resolution is agreed by the Scottish Parliament. This is achieved by section 3(2) of the Bill which provides that the Order continues to have effect after the Bill receives Royal Assent. Section 3(3) provides that the Order be revoked on the day on which any resolution of the Parliament under section 97 comes into force.

This means that the payments made to opposition parties, and the formula used to calculate the payment, would remain the same until such time as changed by the Scottish Parliament. The Parliament could change the terms of the scheme, including for example the formula used to calculate the payment, in the future if it so wished.

It is envisaged that if passed the Bill would receive Royal Assent in time for the Parliament to take control of payments to opposition parties "early in session 6"⁷. The commencement provision in the Bill reads:

“ This Act comes into force at the end of the period of 2 months beginning with the day of Royal Assent. ”

Scottish Parliament (Assistance for Political Parties) Bill, section 4

Costs associated with the Bill are anticipated to be minimal. The SPCB already funds the scheme meaning that there would be no increased cost to the SPCB as a direct result of the legislative change. Future Parliaments may, however, amend the operation of the scheme which could result in increased costs.

“ Since the Parliament was established, there has only been one Order setting the terms of the scheme. It is therefore envisaged that resolutions in the future would be made infrequently. The costs of formulating and lodging a new motion is expected to be minimal and absorbed within the normal running costs of the SPCB's support service. ”

[Financial Memorandum](#), Scottish Parliament (Assistance for Political Parties) Bill

Process for a Committee Bill

Once introduced, the passage of a Committee Bill differs from that of a Government Bill. [Rule 9.15 of the Standing Orders](#) sets out the rules for Committee Bills. The information below relates specifically to the passage of this Bill.

At Stage 1, a Committee Bill is not referred to a lead committee for a report on its general principles (Rule 9.15.8).

The Finance and Constitution Committee will, however, consider and report on the Financial Memorandum to the Bill in the normal way.

The Delegated Powers and Law Reform (DPLR) Committee must report on any provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice. In the case of the Scottish Parliament (Assistance for Political Parties) Bill, no powers are conferred.

MSPs who were members of the committee that developed the proposal for the Bill cannot participate as members of any committee involved in scrutinising the Bill at Stage 1.

Once the Finance and Constitution Committee has reported to the Parliament on the Bill's Financial Memorandum, the Stage 1 debate takes place as normal.

MSPs who were members of the committee that developed the proposal for the Bill cannot participate as members of the committee taking Stage 2⁸.

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