

SCOTTISH PARLIAMENT (RECALL AND REMOVAL OF MEMBERS) BILL

EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Scottish Parliament (Recall and Removal of Members) Bill, introduced in the Scottish Parliament on 17 December 2024.
2. The following other accompanying documents are published separately:
 - a Financial Memorandum (SP Bill 55–FM);
 - a Policy Memorandum (SP Bill 55–PM);
 - a Delegated Powers Memorandum (SP Bill 55–DPM);
 - statements on legislative competence made by the Presiding Officer and the Member in charge of the Bill (SP Bill 55–LC).
3. These Explanatory Notes have been prepared by the Non-Government Bills Unit, on behalf of Graham Simpson, the Member who introduced the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

OVERVIEW OF THE BILL AND GENERAL NOTES

Overview

5. The Bill is divided into 2 main parts as follows:
 - Part 1, and the associated schedule, deal with the process by which an MSP's seat in the Parliament can be lost through a recall petition,
 - Part 2 changes the law on disqualification from the office of MSP so that essentially (1) serving a custodial sentence of 6 months or more is disqualifying, and (2) failing to attend proceedings of the Parliament without good reason for a specified period can lead to disqualification.

Meaning of expressions used in these Notes

6. In these Notes:
- “MSP” means member of the Parliament,
 - “Parliament” means the Scottish Parliament

Interpretation of the Bill

7. The freestanding text of the Bill (that is the text not being inserted into the Scotland Act 1998) falls to be interpreted in accordance with [the Interpretation and Legislative Reform \(Scotland\) Act 2010](#).

8. Text that the Bill would insert into the Scotland Act 1998 will be interpreted, as part of that Act, in accordance with [the Interpretation Act 1978](#).

Crown application

9. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless express provision is made to exempt the Crown. This Bill applies to the Crown in the same way as it applies to everyone else.

PART 1: RECALL OF MEMBERS OF THE SCOTTISH PARLIAMENT

Overview of Part 1

10. Part 1 of the Bill sets out a procedure by which an MSP’s seat in the Parliament can be lost as a result of electors in the constituency or region that the MSP represents signing a petition calling for the MSP to lose the seat. It also provides for a special poll to be held to decide whether a regional MSP who has lost a seat as a result of a recall petition should be returned to the seat; otherwise the seat of a recalled MSP will be filled in the same way as it would were an MSP to leave the Parliament for any other reason.

11. Part 1 is divided into chapters as follows:
- Chapter 1 sets out how an MSP can become subject to a recall petition. There are two grounds for that to happen which are (in broad terms): (1) the MSP is sanctioned by the Parliament in a relatively severe way for breaking parliamentary rules, (2) the MSP commits a crime and is given a custodial sentence.
 - Chapter 2 sets out the rules for running a recall petition process.
 - Chapter 3 deals with what happens once the period for signing a recall petition ends, including the determination of whether the petition has been successful so that the MSP loses the seat.
 - Chapter 4 contains miscellaneous provisions connected to the recall process, including provisions that impose duties on the courts to notify the Parliament’s Presiding Officer

when they deal with cases that may be relevant to the triggering of a recall petition on the criminal-offence ground.

Chapter 1: Initiation of the recall petition process

Procedure for initiating the process

12. Chapter 1 deals with how an MSP becomes subject to a recall petition.

13. Section 1 sets out that there are two grounds by which an MSP becomes subject to a recall petition process. Section 1(2) defines what a recall petition is. Sections 2 and 3 explain what the two grounds for a recall petition are: the parliamentary-sanction ground and the criminal-offence ground (when the appeal period for such a conviction has expired).

14. Section 4 sets out how the appeal period in this context is defined.

15. The recall petition process begins when the Parliament's Presiding Officer sends a recall initiating notice to a petition officer under section 5.

16. Section 24 defines "petition officer". Essentially, the petition officer is the person who would be the returning officer for the MSP's constituency or (as the case may be) region at an election for the Parliament.

17. Subsection (1) of section 5 requires the Presiding Officer to send a recall initiating notice in relation to an MSP as soon as reasonably practicable after the Presiding Officer becomes aware that one of the two recall grounds discussed below applies in relation to the MSP. The petition officer's receipt of the notice then triggers the petition officer's duties under Chapter 2 to make a recall petition available for signing.

Parliamentary-sanction ground for recall

18. The first recall ground is the parliamentary-sanction ground, which is described by section 2. In summary, it applies to an MSP whom the Parliament has decided to sanction in certain ways. The sanction must involve excluding the MSP from parliamentary proceedings or some or all of the Parliament building for a minimum period. If the sanction period is expressed as sitting days of the Parliament (whatever the Parliament might mean by "sitting days"), the minimum period is 10 sitting days. If the sanction period is not expressed as sitting days, the minimum period is 14 days. Further, in order for the parliamentary-sanction ground to apply, the sanction must have been imposed by the committee of the Parliament whose remit includes standards of conduct for MSPs (for example, in Session 6 of the Parliament, that is the Standards, Procedures and Public Appointments Committee). Subsection (5) of section 2 provides that, if it is unclear which Committee has this remit, the Presiding Officer will determine this.

Criminal-offence ground for recall

19. The second recall ground is the criminal-offence ground, which is described by sections 3 and 4. Under section 15 of the Scotland Act 1998, MSPs automatically cease to be an MSP if they receive a custodial sentence of more than 12 months. Part Two, Chapter One of this Bill will reduce

the threshold by which MSPs cease to be MSPs due to a custodial sentence from over 12 months to six months or more.

20. Section 3 of this Bill provides that, if an MSP who, while holding office as an MSP, is convicted of an offence anywhere in the United Kingdom and is, as a result, sentenced or ordered to be imprisoned or detained for a period of less than 6 months, they will be subject to a recall petition process.

21. It does not affect the application of the criminal-offence ground to an MSP when the offence was committed. It does, however, matter when the MSP's conviction for the offence occurred. The offence may have taken place at any time, but the conviction must occur after the MSP became an MSP. Further, the conviction must post date the coming into force of section 1 (see section 22 for when the Bill's provisions come into force). Subsection (4) of section 3 provides that detention for mental health reasons only will not trigger a recall petition process.

Criminal-offence ground: expiry of appeal period

22. Criminal convictions, and sentences and orders for detention, can be overturned on appeal. Section 4 of the Bill defines when the appeal period expires. The criminal-offence ground does not begin to apply to an MSP at the moment the sentence or order is pronounced by the court. Instead, its application is deferred until the "appeal period" expires. For this purpose, subsection (2) provides that the appeal period will be either a period of 28 days from the date of the sentence being determined by the court, or a period defined as the "usual" period, whichever ends first.

23. Subsection 3 of section 4 provides that a petition to the nobile officium does not constitute a relevant appeal for the purposes of this section. The nobile officium is a discretionary power of the Court of Session or High Court of Justiciary to grant a remedy, in extraordinary or unforeseen circumstances, where no other legal remedy is provided for by law. A person might bring a petition to the nobile officium of the Court of Session or High Court in such situations.

Recall initiating notice

24. Section 5 of the Bill sets out the circumstances in which the Presiding Officer must issue a recall initiating notice to the petition officer. As explained in paragraph 49 to 53 below, sections 18 to 20 impose requirements on the criminal courts to notify the Presiding Officer when something occurs that may be relevant to the criminal-offence ground's application to an MSP in order that the Presiding Officer can (amongst other things) discharge the function of issuing a recall initiating notice. Subsection (2) provides the circumstances in which the requirement to issue a recall initiating notice will not apply, and Subsection (3) determines the information that must be included in the notice.

Chapter 2: The recall petition process

Overview of Chapter 2

25. Chapter 2 deals with the running of a recall petition as follows:

- Sections 6 to 8 set out the petition officer’s responsibilities for making the petition available to sign by those entitled to do so and making them aware of the opportunity to sign it. (For the meaning of “petition officer” see paragraph 14 above.)
- Section 9 provides for a recall petition process to end before the period for signing the petition would ordinarily have ended, this is to accommodate two kinds of situation: (1) cases in which there is no longer any purpose in recalling an MSP because the person in question has already ceased to be an MSP, and (2) cases in which the trigger for the recall petition process starting was the criminal-offence ground and, as a result of an appeal, that ground no longer applies in relation to the MSP.
- Sections 10 and 11 deal with the rules about signing a recall petition. Section 10 sets out who is entitled to sign. Section 11 sets out the different ways in which someone who is entitled to sign can do so.
- Section 12 makes it a criminal offence to double sign a recall petition on one’s own behalf or to be involved in various ways in double signing it on someone else’s behalf as a proxy. Section 13 sets out the penalties for committing one of the offences created by section 12.

26. In several places in Chapter 2 there are references to actions being taken in accordance with regulations under section 21. Section 21 (which is discussed further at paragraphs 52-54 below) is a power for the Scottish Ministers to make regulations setting out further administrative detail about (amongst other things) the running of a recall petition process.

Arrangements for the recall petition process

27. Section 6 requires a petition officer, having received a recall initiating notice in relation to an MSP (see paragraph 16 above), to designate where a recall petition in relation to that MSP can be signed and when the period for signing it is to begin. Subsection (2) provides that for recall petitions related to constituency MSPs, up to 10 places may be designated signing places for the petition, and that, for recall petitions related to regional MSPs, a maximum of 10 places may be so designated in each constituency within the region. Subsection (3) sets out that signing places must have reasonable facilities in place and that all signing places must be accessible for those with disabilities, as far as possible. Subsection (4) requires that the day designated to be the start of the signing period be within 3 weeks of the petition officer receiving the recall initiating notice, and indeed requires it to be the 10th working day after the petition officer receives the notice unless it is not reasonably practicable for that to be the start of the period (for example because it is too soon to have the various places for physically signing the petition set up by that date). The term “working day” is defined by section 24.

28. Section 7 imposes a duty on the petition officer to give notice of a recall petition to those entitled to sign it as soon as reasonably practicable after the places for signing and the start of the period for signing have been set under section 6.

29. Section 8 imposes a duty on the petition officer to ensure a recall petition is available to be signed, by those entitled to do so, throughout the signing period both in person at the places designated for signing it and by post. The term “signing period” is defined by section 24.

30. Typically it is to be expected that a recall petition process will conclude with the period for signing ending and a determination of whether the petition has been successful or not being made under section 14. However, section 9 provides for the process to end earlier than that if:

- the person who was the subject of the recall petition as an MSP has ceased to be an MSP (for example, the Parliament might have been dissolved ahead of a general election to it resulting in all MSPs losing office, or the person subject to the recall petition might have chosen to resign as an MSP), or
- the process began because the criminal-offence ground applied to the MSP but it has ceased to do so because on appeal the conviction, sentence or order that caused that ground to apply has been overturned (despite sections 3(1)(c) and 4 delaying the point at which the criminal-offence ground begins to apply to allow standard appeal processes to be gone through, there are circumstances in which an appeal can conclude after the criminal-offence ground began to apply, such as where an appeal is allowed after the usual deadline with the permission of the court).

31. Section 9 provides that, in such cases, the Presiding Officer is to issue a “recall termination process”, as soon as possible, to the petition officer. When such a notice is received, the petition officer’s duties regarding the recall petition process cease (subsection 3), they must terminate the process, and give public notice to that effect (subsection 4).

Signing a petition

32. Section 10 sets out who is entitled to sign a recall petition on a given day. Broadly, in order to be entitled to sign on a day, a person must on that day either be:

- a person who would be entitled to vote in a Parliament election in the constituency or (as the case may be) region of the MSP in question if there were one on that day, or
- a person who is under 16 on that day, but who will be 16 by the end of the period for signing the petition, and who (apart from being under 16) would otherwise be entitled to vote in a Parliament election in the constituency or region represented by the MSP.

33. Entitlement to vote in a Parliament election in a constituency or region turns on being included in the electoral register for the constituency or, in the case of a region, the register for a constituency forming part of the region. Electoral registers are prone to change. To limit the extent to which entitlement to sign a recall petition can vary over the course of a signing period, section 10(2) applies rules to allow certain alterations to an electoral register to be ignored for the purpose of determining whether someone is entitled to sign a recall petition. Central to those rules is the concept of the “cut-off day”, which is the third working day before the beginning of the signing period (the terms “working day” and “signing period” are both defined in section 24). Changes to a register that are made on or before the cut-off day are to be ignored if they result from an application for registration made after the day on which the recall initiating notice that began the recall process was issued. For alterations made after the cut-off day, the position is starker: they are always to be ignored except to the extent that regulations under section 21 say otherwise.

34. Section 11 sets out rules for signing a petition. There are to be 3 ways of signing: in person, by post and by proxy.

35. A person cannot sign the same petition on the person's own behalf more than once, and a person who does double sign is liable to criminal sanction (see section 12). However, subsections (2) and (5), when read together, do allow for a petition to be signed more than once by a person who is a proxy for another person. A person may, for example, sign the petition once on the person's own behalf and a second time as a proxy for another person.

36. Once a person has signed a recall petition, there is no way to withdraw that signature.

Double signing offences

37. Section 12 makes it a crime to do any of the following:

- personally sign a recall petition more than once on your own behalf,
- sign a recall petition knowing that your proxy has already done so in person on your behalf or is being allowed to do so on your behalf by post,
- sign a recall petition more than once as a proxy for the same person,
- sign a recall petition as someone else's proxy knowing that the person on whose behalf you are signing has already signed.

38. Section 13 sets out the penalties for an offence under section 12. Each of those offences are to be prosecuted under summary procedure (as opposed to the more severe solemn procedure), with the maximum penalty a level 5 on the standard scale. The standard scale refers to the scale of fines set out in section 225(2) of the Criminal Procedure (Scotland) Act 1995. At the time these Notes were prepared, level 5 on the standard scale was £5,000.

39. In addition to any other penalty the court may impose for committing an offence under section 12, section 13 also requires the court to impose an electoral-restrictions order on the person unless the court considers it inappropriate to do so. The default effects of being subject to an electoral restrictions order (the court can vary them where it considers that appropriate under subsection 5) are as follows:

- for a period of 3 years beginning with the date of conviction, you are not allowed to vote in Parliament elections and local government elections in Scotland,
- for the same period, you are barred from being elected as an MSP or a local government councillor,
- if, when the order is imposed, you are already an MSP or local government councillor, you are suspended with immediate effect and, unless you have the order quashed on appeal, you must quit the office within 3 months of the conviction or sooner if the period for seeking to bring an appeal ends earlier without your having done so or you do appeal but your appeal is abandoned or dismissed before the 3 months are up.

Chapter 3: Outcome of the recall petition process

Determination and notice of petition outcome

40. Section 14 sets out what is to happen once the signing period for a recall petition ends (assuming the process has not been terminated early under section 9).

41. The petition officer is to decide whether the petition has been successful, which is to say has resulted in the MSP being recalled and is to notify the Presiding Officer and the public of the outcome. Section 14, subsection (6) states that the Presiding Officer must also lay before Parliament any notice that is received.

42. In the case of a constituency MSP, a recall petition is successful if it has been signed by at least 10% of those who were entitled to sign it. In the case of a regional MSP it is successful only if, as well as having been signed by at least 10% of those who were entitled to sign it across the region as a whole, it has been signed by at least 10% of those who were entitled to sign it in at least 3 of the constituencies forming the region.

Effect of successful petition

43. The effect of a petition being successful is that the recalled MSP ceases to be an MSP, as set out by section 15. This is provided for by the modifications that the schedule (introduced by section 15) makes to section 13 of the Scotland Act 1998. The modifications add to section 13 a list of all of the ways that a person can cease to be an MSP between elections, including the new ground of being recalled which is triggered when (under section 14 of the Bill) a petition officer notifies the Presiding Officer that a recall petition has been successful.

44. If a constituency MSP ceases to be an MSP, a by-election in the constituency will usually be triggered (see section 4 of the Scotland Act 1998). Section 16 makes provision about what is to happen where a regional MSP is successfully recalled (detailed further below).

45. Section 17 sets out that any former constituency or regional MSP is not legally precluded from standing in any in future elections, including any by-election or a regional poll that may follow a recall petition.

Poll to determine if recalled member to fill regional vacancy

46. Section 16 allows a recalled former regional MSP to choose to seek to regain the regional seat through a poll of the regional electorate. In order to do so, the former MSP must notify the Presiding Officer within 2 weeks of notice of the recall petition's outcome being given publicly that the person wishes a poll to be held to determine whether the person should be returned to the seat. The outcome of the poll is determined on a simple majority basis. If 50% or more of the regional electorate have voted in favour of the recalled former member being returned to the seat, the person regains the seat. If the recalled MSP does not win a majority in the poll (or chooses not to proceed with a poll), the usual process that operates when a vacancy in a regional seat arises between elections.

47. The usual process for filling a vacancy in a regional seat is set out in section 10 of the Scotland Act 1998. It entails the regional returning officer working through the regional list of candidates of the party that won the seat at the last election until a person on the list takes the seat.

48. The schedule modifies section 10 of the Scotland Act to interrupt that usual process in order to allow the section 16 poll process to operate. The effect of the modifications is that a new subsection (2A) operates where a vacancy has arisen as a result of a successful recall petition, a

section 16 poll has been held and the recalled former MSP has won it. In that case, the petition officer's notice to the Presiding Officer that the person has won the poll causes the person to be returned as an MSP for the region. In any other case (including where a recalled MSP has opted not to contest a poll or has lost it), the new subsection (2B) inserted by the schedule provides for the vacant seat to be filled in accordance with the usual process described in the preceding paragraph. As stated above, section 17 provides that any MSP who loses their seat as a result of a successful recall petition is able to stand in future parliamentary elections, including a by-election or regional poll that may follow a recall petition.

Chapter 4: Further provision in relation to recall

Courts to notify Presiding Officer about matters relevant to the criminal-offence ground

49. In order for the Presiding Officer to be able to discharge the function of sending recall initiating notices under section 5 and recall termination notices under section 9, the Presiding Officer needs to know when the criminal-offence ground has begun to apply to an MSP or may soon begin to do so and, where it has begun to apply, whether it continues to do so. To help with that, sections 18 to 20 impose obligations on the criminal courts (including the appeal courts) to notify the Presiding Officer of developments before them that may be relevant to whether or not the criminal-offence ground applies, or continues to apply, in relation to an MSP.

50. Section 18 sets out the circumstances in which a court must inform the Presiding Officer of when an MSP has been convicted of an offence, the sentence they have received, and if the criminal-offence ground for the recall petition process will apply. Subsection (2) states that such a notice does not have to be given if the person has vacated their seat at the point they are convicted. Subsection (3) lists the details which must be included in the notice from the court to the Presiding Officer.

51. Section 19 sets out that when a relevant sentence or order has been imposed such a sentence or order could be overturned on appeal. The court must notify the Presiding Officer of that, unless the person convicted of the offence has vacated the seat that they held at the time of the conviction.

52. Section 20 provides that courts must also give notice to the Presiding Officer when a relevant appeal has been determined or otherwise disposed of at the point at which the relevant sentence or order could have been overturned, unless the person convicted of the offence has vacated the seat that they held at the time of their conviction. Subsection (3) sets out the detail that should be included in such a notice.

53. Although the criminal-offence ground can apply as a result of a conviction, sentence or order pronounced by a court anywhere in the United Kingdom, as provisions in a Bill for an Act of the Scottish Parliament, the legislative competence of which is constrained by section 29 of the Scotland Act 1998, sections 18 to 20 (if enacted) will only apply as a matter of Scots law and therefore do not require notice to be given by courts outwith Scotland.

Power to make further provision about processes, etc.

54. Section 21 gives the Scottish Ministers a power to make regulations making further provision about:

This document relates to the Scottish Parliament (Recall and Removal of Members) Bill (SP Bill 55) as introduced in the Scottish Parliament on 17 December 2024

- the running of recall petitions,
- the running of polls under section 16 to decide whether a person recalled as a regional MSP should be returned as the MSP for the region,
- whether and how recall petitions and section 16 polls can be challenged after the event.

55. It is a wide power, similar in its terms to section 12 of the Scotland Act 1998 which allows the Scottish Ministers to make provision by order about, amongst other things, elections to the Scottish Parliament. That power has been used to make the Scottish Parliament (Elections etc.) Order 2015 (S.S.I. 2015/425).

56. The power under section 21 is subject to the affirmative procedure (see section 30).

Power to replace references with actual dates

57. Section 22 gives the Scottish Ministers a power to modify the Act that the Bill will become (if passed) so as to replace references to the dates on which things are to come into force with the actual dates on which they come into force. For example, section 3 in defining the criminal-offence ground for recall states that the ground only applies where an MSP is convicted after the date on which section 1 of the Bill comes into force. In order to know when that is, a reader will have to refer to section 31 to establish that section 1 is to come into force 6 months after the Bill receives Royal Assent and then look to the enacting formula at the start of the Act the Bill will become (if passed) to ascertain when Royal Assent was received. It is easier for end users of the statute book to see actual dates than references to when provisions come into force. The regulation-making power under section 22 will allow the Scottish Ministers to modify legislation so that readers can be presented with actual dates when they refer to up to date copies of the legislation.

58. The Bill does not provide for any parliamentary scrutiny procedure to apply in relation to regulations under section 22. Accordingly, they will be subject to a bare requirement for them to be laid before the Parliament in accordance with section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

59. Section 23 gives definitions for expressions related to criminal proceedings that are relevant to the criminal-offence ground, including what does and what does not constitute an appeal, and how a persons' conviction, sentence or order may be materially overturned.

60. Section 24 provides references to other terminology used in Part One of the Bill, including political terminology (such as "constituency") and other terms (such as "signing period" and "working day").

PART 2: REMOVAL OF MEMBERS OF THE SCOTTISH PARLIAMENT

Chapter 1: Removal for offending

61. Section 25 provides that an MSP is disqualified from office/membership of the Parliament if they have been convicted of an offence and have received a custodial sentence of between six months and one year in the British Islands or the Republic of Ireland (or be unlawfully at large

when they should be serving such a sentence). This new ground of disqualification from being an MSP does not apply however if:

- the conviction was pronounced before section 25 came into force (see section 31),
- the person's detention has been ordered on mental health grounds and no underlying sentence or order imposed in respect of the same conviction means that the person will be sent to a prison or other place of detention once the period of detention on mental-health grounds has ended.

Chapter 2: Removal for failing to physically attend

62. Section 26 inserts a new paragraph (f) into section 15(1) of the Scotland Act 1998 so that a person becomes disqualified from being an MSP if the Parliament resolves to disqualify the person in accordance with a process that is included in the Parliament's standing orders in fulfilment of the requirement set by section 27.

63. Section 27 requires the Parliament to include in its standing orders a process that can lead to the Parliament resolving to disqualify a person from being an MSP due to a prolonged failure to physically attend proceedings of the Parliament (defined as 180 days or more). The 180-day period excludes recess, periods where an MSP was excluded from Parliament under standing orders (i.e. they were suspended), and when an MSP has a reason for their absence that Parliament has accepted. For an MSP to be disqualified under this process, all members of Parliament must have had the opportunity to vote on the disqualification and a committee of the Parliament must have recommended the disqualification, having given the MSP involved the opportunity to make representations to it.

64. Section 26 also inserts a new subsection (8) into section 15 of the Scotland Act 1998. This provides that a person's disqualification under the new subsection (1)(f) only lasts until the person has ceased to be an MSP as a result of the Parliament's resolution to disqualify the person. A disqualification under section 15(1)(f) is therefore a disqualification from being an MSP of only a very short duration. Section 17 of the Scotland Act causes a person to lose their seat as an MSP as soon as they become disqualified. Once the person is no longer an MSP, the disqualification on the grounds of section 15(1)(f) stops applying so that the person could immediately stand to be re-elected to the Parliament.

65. Section 28 makes minor adjustments to section 15(1) of the Scotland Act in consequence of the modification made by section 26, and also section 25. Both sections insert new paragraphs into section 15(1) that refer to the person subject to disqualification as "the person". The existing paragraphs of section 15(1) refer to that person using the gendered pronoun "he". Section 28 replaces those instances of the gendered pronoun with "the person" so that the way the same person is referred to is consistent throughout section 15(1).

PART 3: FINAL PROVISIONS

Ancillary provision

66. Section 29 of the Bill enables the Scottish Ministers to make ancillary provision, by regulations, to give full effect to the Act the Bill will become (if passed) or any provision made under it. It includes the power to modify other enactments (including the Act the Bill will become).

67. The parliamentary scrutiny procedure that will apply to regulations under section 29 is addressed by section 30.

Regulation-making powers

68. Section 30 provides for regulations under section 21 to be subject to the affirmative procedure. It further provides for regulations under section 29 to be subject to the affirmative procedure if they textually modify an Act, but for them to otherwise be subject to the negative procedure.

69. The affirmative and negative procedures are defined by sections 29 and 28 (respectively) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Commencement

70. Section 31 of the Bill deals with when the provisions of the Act the Bill will become (if passed) into effect as a matter of law.

71. It provides for the formal provisions that comprise Part 3 of the Bill to come into effect the day after the Bill for the Act receives Royal Assent.

72. The substantive provisions, comprising Parts 1 and 2, come into effect 6 months after the Bill receives Royal Assent.

73. The process by which a Bill becomes an Act of the Scottish Parliament is set out in section 28 of the Scotland Act 1998.

Short title

74. Section 32 of the Bill provides that the short title of the Act that the Bill will become (if passed) is the Scottish Parliament (Recall and Removal of Members) Act 2025. The short title is the name by which an Act may be officially cited.

This document relates to the Scottish Parliament (Recall and Removal of Members) Bill (SP Bill 55) as introduced in the Scottish Parliament on 17 December 2024

SCHEDULE: SUCCESSFUL RECALL PETITIONS: MODIFICATIONS TO THE SCOTLAND ACT 1998

75. The modifications made to section 10 of the Scotland Act 1998 by the schedule are explained in paragraph 48 above.

76. The modifications made to section 13 of the Scotland Act are explained in paragraph 43 above.

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SCOTTISH PARLIAMENT (RECALL AND REMOVAL OF MEMBERS) BILL

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