



## ***Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill: Progress of the Bill***

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This Note charts the progress of the *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill* through Parliament. It complements Research Paper 13/51 prepared for the Commons Second Reading.

The Bill received its Second Reading on 3 September 2013, and was committed to a Committee of the whole House of Commons.

Concerns were expressed in the Second Reading debate, by select committees and from outside the House, about the effect changes to the rules on non-party campaigning would have on charities and campaign groups; and about the effect the lobbying rules might have on Members.

The Bill was considered by a Committee of the whole House on 9, 10 and 11 September. Amendments were made to Parts 1 and 2 of the Bill but Part 3 of the Bill, on trade union administration, was not amended.

In Part 1 (on lobbying), Government amendments were accepted which meant that only those registered under the *Value Added Tax Act 1994* would be required to register as consultant lobbyists. The Government also accepted an amendment that confirmed Members' salaries and expenses or the expenses and allowances of members of the House of Lords would not count as payment for lobbying. The Government also undertook to safeguard the independence of the Registrar of Consultant Lobbyists.

In Part 2 (on non-party campaigning), some minor changes were made to the Bill but the Government promised that amendments would be tabled at Report Stage to address concerns that definitions in the Bill relating to "for election purposes" could restrict campaigning organisations in campaigning that was not intended to promote or procure the success of a party or candidate.

At Report Stage, the Government brought forward amendments on both Parts 1 and 2. There

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were amendments to clarify that lobbying aspects do not apply to MPs and amendments to modify the original definition of campaigning for electoral purposes, which affected charities and other third parties.

The Bill was given a Third Reading on 9 October 2013 and introduced in the House of Lords on the same day.

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## 1 Introduction

The *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill 2013-14* was introduced in the House of Commons on 17 July 2013 as Bill 97 of the Session. The Bill, as introduced, fell into three main parts:

- Part 1 establishes a register of consultant lobbyists and a Registrar of lobbyists to supervise and enforce the registration requirements.
- Part 2 changes the legal requirements for people or organisations that campaign in relation to elections but are not standing as candidates or are not registered political parties (third party campaigning).
- Part 3 changes the legal requirements in relation to trade unions' obligations to keep their lists of members up to date.

The Bill received its [Second Reading](#) on 3 September 2013, and was committed for consideration by Committee of the whole House for three days of debate, on 9, 10 and 11 September. Report and remaining stages are scheduled to take place on 9 and 10 October.

The Bill was amended in Committee. The Bill, as introduced and as amended, is available on the parliamentary website:

- [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill 2013-14](#) [Bill 97], as introduced;
- [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill 2013-14](#) [Bill 108], as amended in Committee
- [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill 2013-14](#), as track changed by the Public Bill Office

This Standard Note summarises the proceedings on the Bill during its Commons stages and outlines the views of parliamentary committees and others that have considered the Bill since it was introduced. In particular, it notes the main recommendations from the Political and Constitutional Reform Committee and the Committee on Standards, both of which published reports before Committee stage.

Full details of the Bill (as introduced) and issues raised by its provisions are set out in the Library Research Paper 13/51, [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill](#). Further material and links to the proceedings on the Bill can be found on its pages on the Parliamentary website.<sup>1</sup>

## 2 Second Reading debate and other developments

### 2.1 Second Reading debate

The Second Reading debate took place on 3 September 2013. The Opposition tabled a reasoned amendment to the Second Reading motion, arguing that because of the limited scope of the proposals on lobbying and the potential impact on charities of the provisions regarding third party campaigning, the Bill should not be given a Second Reading:

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<sup>1</sup> House of Commons, *Bills and Legislation: Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill*

this House affirms its belief in the need for greater transparency in the lobbying industry and in British politics, and considers that there should be a universal register of all professional lobbyists backed by a code of conduct and sanctions, clear rules on third party campaigning, and real reform to get the big money out of politics; but declines to give a Second Reading to the Transparency of Lobbying, Third Party Campaigning and Trade Union Administration Bill because the proposals on lobbying cover only a tiny minority of the industry and will make lobbying less transparent, and the proposals on third party campaigning amount to a gag on charities and campaigners who have a democratic right to participate in important debates in the run up to elections; and strongly believes that the publication of such a Bill should have been preceded by a full process of pre-legislative scrutiny and consultation with affected parties.<sup>2</sup>

Angela Eagle, Shadow Leader of the House, argued that the Bill was “hurried, badly drafted and an agglomeration of the inadequate, the sinister and the partisan”.<sup>3</sup> The Labour amendment was defeated with 243 in favour, and 313 against. The House also divided on the motion that the Bill should be read a second time. The motion was passed with 309 voting in favour and 247 voting against.<sup>4</sup>

The Chair of the Political and Constitutional Reform Committee also tabled a reasoned amendment, recommending that the Bill should be sent to a special select committee for six months of detailed scrutiny and evidence taking. This amendment was not selected.

## **Lobbying**

Andrew Lansley, the Leader of the House of Commons, argued that Part 1 of the Bill would assist in making “transparent who is lobbying whom for what”. He addressed concerns that many businesses that engaged in lobbying would not be required to register, but he maintained that taking wider action to regulate all lobbying activity was not the objective of the Bill.<sup>5</sup>

The Leader of the House also addressed concerns raised by the Chair of the Committee on Standards, Kevin Barron, in evidence to the Political and Constitutional Reform Committee, regarding how Part 1 of the Bill would affect the role of Members.<sup>6</sup> Andrew Lansley stated that Members of Parliament would not be caught by the provisions in the Bill. He argued that “Members of Parliament are not caught because they are not engaged in the business of lobbying” but also that there is a “specific exemption in relation to representing constituents”.<sup>7</sup> He stated that if there was any doubt about this, he would “come back to the House and put it beyond doubt”. Kevin Barron, however, told the House that the Committee on Standards would be recommending that “paragraph 2 of schedule 1 should be removed and that there should be a sub-paragraph in paragraph 6 stating that any payments we get from IPSA cannot be interpreted as money for lobbying”.<sup>8</sup> (An amendment, in the name of Graham Allen, to the latter effect was moved by the Minister, and agreed in Committee, see section 3.2 of this Note.)

## **Non-Party Campaigning**

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<sup>2</sup> [HC Deb 3 September 2013 c186](#)

<sup>3</sup> [Ibid c186](#)

<sup>4</sup> [Ibid c272-276](#)

<sup>5</sup> [Ibid cc172-174](#)

<sup>6</sup> Political and Constitutional Reform Committee, *The Government's lobbying Bill, Volume II – Oral Evidence*, 5 September 2013, HC 601-II 2013-14, Qq 221-237

<sup>7</sup> [HC Deb 3 September 2013 cc176-177](#)

<sup>8</sup> [Ibid c177](#)

The Bill as introduced would lower the limit for spending by each third party in the UK from £988,800 to £388,080. It also would broaden the definition of expenditure considered to count as campaign expenditure to include activities such as canvassing and rallies as well as the production of election material. Before the Bill's Second Reading, a number of charities and voluntary groups had raised questions about how their activities would be affected by the clauses of the Bill on third party campaigning in the 365 day period prior to a general election. In addition, the Electoral Commission had published a briefing before the Second Reading debate which drew Members' attention to various issues of "workability" around the third-party campaigning clauses.<sup>9</sup> Andrew Lansley addressed the arguments made by the charities and other organisations about the affect the third party campaigning provisions might have:

The Government's clear view is that nothing in the Bill should change the basic way in which third parties campaign and register with the Electoral Commission. Currently, third parties register if they are campaigning to promote the electoral success, or otherwise enhance the standing, of a party of candidates. That will stay the same...<sup>10</sup>

However, Graham Allen, Chair of the Political and Constitutional Reform Committee, argued that the charities were still concerned because "the expenditure limits are tighter and will be policed, enforced and regulated in a different way" and "because included in the normal expenditure envelope is stuff that has not been there before, such as staffing".<sup>11</sup>

### **Trade Union Administration**

The Leader of the House said that trade unions are influential participants in public life and should be able visibly to demonstrate that they know who their members are and can contact them.<sup>12</sup> He said the Bill would build on unions' existing duty to keep their membership registers up-to-date, and that:

I have heard the claim that these measures represent an intrusion into trade unions' right to autonomy. Rules of operation will vary from one union to another. We are not interfering with that. Unions will continue to choose how they define a member, and we are deliberately not prescribing the processes that a union should adopt in their compilation and maintenance of member data. All we are doing is asking unions to provide an annual assurance that they are doing everything that they can to ensure that they know who their members are and how to contact them. I think members would be concerned if their unions felt unable to comply with that.<sup>13</sup>

Mr Lansley stated that the Government would work with both unions and employers to "develop comprehensive guidance about the rights and responsibilities as a result of the new regime."<sup>14</sup>

For the Opposition, Angela Eagle said the "proposals seem deliberately designed to burden trade unions with additional cost and bureaucracy from a Government who claim they are against red tape."<sup>15</sup> She said that the Trades Unions Congress had advised her that neither the Certification Officer nor ACAS had made any representations to them to suggest the

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<sup>9</sup> Electoral Commission, *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill 2013: House of Commons Second Reading*, 3 September 2013

<sup>10</sup> HC Deb 3 September 2013 c181

<sup>11</sup> Ibid c182

<sup>12</sup> HC Deb 3 September 2013 c184

<sup>13</sup> Ibid, c185

<sup>14</sup> Ibid

<sup>15</sup> Ibid, c198

existing statutory provisions were inadequate, and that the Government “have to date failed to provide any evidence or rationale for these changes.”<sup>16</sup> Dr Hywel Francis, Chair of the Joint Committee on Human Rights, criticised the Bill’s lack of pre-legislative scrutiny. He said the Committee should have had the opportunity to scrutinise the Bill in light of concerns raised by some about the human rights implications of the Bill, specifically, the rights to privacy and freedom of assembly.<sup>17</sup>

### **Government response**

In his closing speech, Deputy Leader of the House of Commons, Tom Brake restated that the Government were “very keen to work with charities, non-governmental organisations and, indeed Select Committees to ensure that their views are taken into account”. In addition, he reiterated that the Government wanted to make sure that “the issue of parliamentarians and the role we play will be clarified very clearly in relation to this Bill”.<sup>18</sup>

## **2.2 Programme motion**

The programme motion provided for three days in Committee, on the floor of the House; and allowed two days for remaining stages. The House divided on the programme motion, with 300 in favour and 249 against.<sup>19</sup>

## **2.3 Committee on Standards report**

The Committee on Standards’ report, *Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Bill*, was published on 3 September 2013.<sup>20</sup> The Committee examined the interaction between the legislation and parliamentary rules relating to the conduct of Members. The Committee concluded that although it had not been the Government’s intention, the Bill was unclear in its definition of consultant lobbying and how it would apply to Members:

we consider the approach the Government has taken to drafting the definition of consultant lobbying is unsatisfactory. The Bill is unclear in its definition of consultant lobbying and, in particular, about the way in which its provisions would apply to Members. The sweeping powers to refine this definition delegated to the Registrar of Consultant Lobbyists are unacceptable. It is perfectly possible that the courts and the Registrar of Consultant lobbyists will clarify that the definition does not extend so far. But primary legislation should be unambiguous about such matters.<sup>21</sup>

The Committee recommended that the Bill should be amended to remove the exemption for Members working for their constituents. Instead, the Committee recommended inserting a provision to make it clear that any salary received by a Member as a Member of the House of Commons did not constitute a payment for the purposes of the Bill:

In our view, the difficulties about the way in which this legislation applies to Members of Parliament would be swept away if paragraph 2 of Schedule 1 was removed. We consider it is necessary to make clear that Members’ ordinary work is not caught by the Bill. A new subparagraph should be added to paragraph 6, stating that a reference to payment does not include a reference to the salary an MP receives as a Member of the

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<sup>16</sup> Ibid

<sup>17</sup> Ibid, cc198-199

<sup>18</sup> [HC Deb 3 September 2012 c271-272](#)

<sup>19</sup> [Ibid, cc280-285](#)

<sup>20</sup> Committee on Standards, *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill*, 3 September 2013, HC 638 2013-14

<sup>21</sup> *Ibid*, para 16

House of Commons. We would be happy to work with the Government on this. We anticipate amendments at the Committee stage in the House of Commons.<sup>22</sup>

## 2.4 Political and Constitutional Reform Committee report

The Political and Constitutional Reform Committee's report on *The Government's lobbying Bill* was published on Thursday 5 September.<sup>23</sup> The report was critical of both the content of and the lack of consultation on the drafting of the proposed legislation.<sup>24</sup> The report called for the Bill to be withdrawn and for a special parliamentary committee to carry out pre-legislative scrutiny, using the text of the existing Bill as a draft.<sup>25</sup>

The Committee also "proposed some amendments to Parts 1 and 2, which we think will improve it" and urged the Government to address concerns raised in relation to Part 3.<sup>26</sup>

In Part 1 of the Bill, it recommended:

- expanding the definition of a lobbyist to include in-house lobbyists;
- expanding the definition of what constitutes lobbying to include the provision of lobbying advice;
- extending the list of people with whom communication, or advising on communication, counts as lobbying to include Senior Civil Servants and special advisors.

It argued that to exclude Members of Parliament from the Bill, the Government should delete Paragraph 2 of Schedule 1, and instead include a provision stating that a Member of Parliament's salary from IPSA does not count as "payment" under clause 2(1)(a) of the Bill.

The Committee also recommended the register of lobbyists should be expanded to include additional information in some circumstances:

The information that the register requires to be listed should be expanded to include the subject matter and purpose of the lobbying, when this is not already clear from a company's name. ... We also suggest that there could be a financial threshold above which companies are required to provide information about the subject matter and purpose of lobbying.<sup>27</sup>

In relation to Part 2 of the Bill, the Committee recommended that the definition of "electoral purposes" should be defined more narrowly, and raised concerns about the new lower threshold for third party expenditure:

74. The definition of spending "for electoral purposes" as currently drafted is likely to cause confusion. It is unsatisfactory that its interpretation should be left largely to the Electoral Commission—a state of affairs that the Commission itself has criticised. *The Government must define clearly in the Bill itself what it means by "for electoral purposes". We recommend that it should be defined relatively narrowly, so that it relates clearly to promoting a particular political party or candidate, or the intent to damage a particular political party or candidate.*

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<sup>22</sup> *Ibid*, para 17

<sup>23</sup> Political and Constitutional Reform Committee, *The Government's lobbying Bill*, 5 September 2013, HC 601-I 2013-14

<sup>24</sup> *Ibid*, para 5

<sup>25</sup> *Ibid*, para 98

<sup>26</sup> *Ibid*, paras 99 and 96

<sup>27</sup> *Ibid*, paras 28, 38 and 45

78. *In the absence of any evidence that there is a need to lower the threshold for third parties to register with the Electoral Commission, we recommend that the Government revert to the existing levels. To this end, we recommend that clause 27(1) is removed from the Bill.*

82. We have stated already that we have not seen adequate evidence for setting the new thresholds for expenditure at the levels imposed by Part 2 of the Bill. The Government must explain the reasoning behind its decisions during the passage of the Bill. Even if the Government can make the case for imposing lower levels, it must be able to give a convincing account of why it has chosen these particular limits as opposed to any others. *If it cannot do so, we recommend that the existing levels continue to apply until such point as the case for change has been made.*<sup>28</sup>

## **2.5 Government undertakings to amend the Bill**

On Friday 6 September, the Cabinet Office published a statement saying that the Government intended to amend the definition of “controlled expenditure” by third parties. The announcement also stated that the Bill would be amended to clarify how the lobbying provisions would affect Members of Parliament.<sup>29</sup>

On 26 September, the Cabinet Office issued a further statement confirming that the Government would publish amendments for consideration at Report Stage.<sup>30</sup>

### **Third party campaigning**

The Government indicated that they had decided to amend the provision on “controlled expenditure” following discussions with the National Council for Voluntary Organisations (NCVO) and others. The Government stated that “we now propose to revert to the situation set out under existing legislation, which defines controlled expenditure as expenditure ‘which can reasonably be regarded as intended to promote or procure electoral success’”. The statement, however, reiterated that the other provisions in relation to third parties would stand:

It is important to reiterate that the Bill will still bring down the national spending limit for third parties, introducing constituency spending limits and extend the definition of controlled expenditure to cover more than just election material, to include rallies, transport and press conferences.

The Electoral Commission welcomed the statement but warned that the new definition needed to be carefully applied to each new category of regulated activity in proposed Schedule 8A to avoid regulatory uncertainty.<sup>31</sup>

### **Application of lobbying clauses to Members**

The statement made on 6 September also announced that changes would be made to the provisions of the Bill relating to Members of Parliament:

The Government has worked with the Chair of Political and Constitutional Reform committee to draft an amendment which would exempt MPs on the basis of acting in the normal course of their duties as an MP. MPs who break the Code of Conduct and

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<sup>28</sup> *Ibid*, paras 74, 78 and 82

<sup>29</sup> Cabinet Office press release, [Government to act on Transparency Bill amendments after NCVO meeting](#), 6 September 2013

<sup>30</sup> Cabinet Office press release, [Andrew Lansley, Leader of the House of Commons, has announced that the government will publish amendments to the Transparency of Lobbying Bill](#), 26 September 2013

<sup>31</sup> Electoral Commission, [Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill 2013 Amendment briefing](#), 10 September 2013, p2

engage in consultant lobbying would still face the same penalties as members of the public.<sup>32</sup>

### **3 Committee stage**

#### **3.1 Summary**

The Bill was considered by a Committee of the whole House on 9, 10 and 11 September, with each of the three parts being given one day for debate. Amendments were made to Parts 1 and 2 of the Bill but Part 3 of the Bill was not amended: the Government did not table any amendments to this Part and none of those proposed by the Opposition were made.

In Part 1 (on lobbying), Government amendments were accepted which mean that only those who registered under the *Value Added Tax 1994* would be required to register as a lobbyist. The Government accepted an amendment that confirmed Members' salaries and expenses or the expenses and allowances of members of the House of Lords would not count as payment for lobbying. The Government also undertook to safeguard the independence of the Registrar of Consultant Lobbyists.

In Part 2 (on non-party campaigning), some minor changes were made to the Bill but the Government promised that amendments would be tabled at Report Stage to address concerns that definitions in the Bill relating to "for election purposes" could restrict campaigning organisations in campaigning that was not intended to promote or procure the success of a party or candidate.

#### **3.2 Registration of consultant lobbyists – Part 1 of the Bill**

The Committee stage debate on Part 1 of the Bill took place on 9 September 2013. The amendments and new clauses were discussed in two groups. Broadly speaking, those concerning what constitutes lobbying as captured by the Bill were discussed at columns 713-72, while those concerning what the Bill requires such lobbyists to do were discussed at columns 772-96. Other amendments were decided without further debate at columns 796-801.

The main change made was to exempt those not registered for VAT from the requirement to be listed on the register of consultant lobbyists. The Minister argued that this would prevent a regulatory burden being placed on small businesses. As an employee cannot be registered for VAT, amendments were also made that removed the requirement for "employees" to register under the Act. Opposition amendments included efforts to establish a code of conduct, to require disclosure of financial information and to widen the application to all professional lobbyists.

The Government's main reason for rejecting Opposition amendments was that they were aimed at a different issue: the Minister, Chloe Smith, reiterated that the Bill was intended to tackle a specific problem and to complement the information published by Departments about ministerial meetings.<sup>33</sup> So, for instance, it was not part of the Bill to register occasions when a lobbyist advised a client or arranged a meeting, since the identity and interests of the person attending the meeting would be clear. Likewise, she argued, registration of in-house lobbyists would duplicate the information already published by Departments, since the organisation represented by such a lobbyist is clear. She opposed a code of conduct on the

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<sup>32</sup> Cabinet Office press release, [Government to act on Transparency Bill amendments after NCVO meeting](#), 6 September 2013

<sup>33</sup> HC Deb 9 September 2013 cc761-3

basis that it tended towards full regulation of the industry and would not be workable on a statutory basis.<sup>34</sup>

Labour’s main complaint against the Government’s amendments concerned the removal of the separate requirement for employees to register.<sup>35</sup> Jon Trickett argued that there was a loss of transparency if the link between employers and employees were not made clear within the registration system.

All the Government’s amendments were made, and none of the Opposition’s. One amendment was made that did not originate from the Government. Amendment 151 added to the MP exemption in Schedule 1 by providing that parliamentary salaries and allowances do not count as payments for the purposes of Part 1 of the Bill. This was tabled by Graham Allen, Chair of the Political and Constitutional Reform Committee; the Government supported it, and moved it for procedural reasons. In addition, the Government gave an undertaking to keep under review the effectiveness of the safeguards for the Registrar’s independence,<sup>36</sup> and declared itself aware of the importance of ensuring the register was self-funding and did not press on public finances.<sup>37</sup>

In the table below, amendments are attributed to the Government, or to an opposition party if tabled by the front bench, or to the first Member whose name is given on the amendment paper even if others added their names.

<b>Clause and Amendments</b>	<b>Debate</b>	<b>Outcome</b>
	Monday 9 September 2013 – Committee of the whole House: <a href="#">Amendment Paper</a>	
<i>Clause 1</i>		
<i>Prohibition on consultant lobbying unless registered</i>		
Lab amdt 2	The first of several amendments changing the term “consultant lobbyist” to “professional lobbyist” to support the aim of bringing in-house lobbying within the scope of the Bill	Negatived on division, ayes 205 – noes 268
Lab amdt 5	As amendment 2	Not called
Lab amdt 3	Would have changed the requirement for a person, or, if they are an employee, their employer to register to a requirement for both to register	Withdrawn
Govt amdt 76	Consequential to the amendment of Clause 2 (see below) to exclude those who are not VAT registered. Removed the separate requirement for employers to register, so that now “a person” may not carry out the business of consultant lobbying unless registered.	Amdt made without vote

<sup>34</sup> *Ibid*, cc786-7  
<sup>35</sup> *Ibid*, cc720-3  
<sup>36</sup> *Ibid*, cc 787-8  
<sup>37</sup> *Ibid*, c787

Lab amdt 4	<p>Since a legal person may be a company or an individual, registration will be required of companies or self-employed individuals who are VAT registered, but not of employees</p> <p>First in a set of amendments to establish a Code of Conduct, it would have inserted a requirement to be signed up to the Code alongside the requirement to register</p>	<p>Negated on division, ayes 210 – noes 280</p> <p><b>Clause 1 as amended ordered to stand part</b></p>
<p><i>Clause 2</i></p> <p><i>Meaning of consultant lobbying</i></p> <p>Lab amdt 7</p> <p>Amdt 48, Graham Allen</p> <p>Lab amdt 8</p> <p>Govt amdt 77</p> <p>Govt amds 78, 79 and 80</p> <p>Lab amdt 9</p> <p>SDLP amdt 161</p>	<p>As amendment 2</p> <p>Would have added to the definition of a consultant lobbyist anyone who advises another person on making the type of communications covered by the Bill</p> <p>Pursuant to the aim of widening the Bill to cover all professional lobbyists, the amendment would have brought in-house lobbyists under the registration regime by deleting the requirement for lobbying to be on behalf of another person</p> <p>Restricted requirement to register to those who are VAT registered</p> <p>Drafting changes</p> <p>Would have removed the exceptions in Schedule 1, Part 1 (later amendments would have introduced alternative exceptions; this move was in some ways consequential to amendment 2), and added to the definition of consultant lobbying advice to others on lobbying or arrangement of a lobbying meeting</p> <p>Would have added in-house lobbyists to the definition of consultant lobbyists</p>	<p>Not called</p> <p>Not called</p> <p>Not called</p> <p>Amdt made without vote</p> <p>Amdts made without vote</p> <p>Negated on division, ayes 209 – noes 289</p> <p>Not called</p> <p><b>Clause 2 as amended ordered to stand part</b></p>
<p><i>Clause 3</i></p> <p><i>Registrar</i></p>		

Lab amdt 30	As amendment 2	Not called
Amdt 136, Lady Hermon	Would have given the Minister duties to ensure the independence and adequate funding of the Registrar. Chloe Smith gave assurance that she was “willing to continue to review the issue” of independence, HC Deb 9 September 2013, c788	Not called  <b>Clause 3 ordered to stand part</b>
<i>Clause 4</i>  <i>Register</i>		
Lab amdts 32 and 33	As amendment 2	Not called
Lab amdt 34	Would have added to the information on the register the amount spent on lobbying by the registered person	Not called  <b>Clause 4 ordered to stand part</b>
<i>Clause 5</i>  <i>Quarterly client information return</i>		
Lab amdts 36 and 37	Consequential to amendment 34	Not called
Amdt 137, Graham Allen	Would have added to a “nil return” statement for a quarter details of any meetings with Ministers or Permanent Secretaries not falling within the Bill	Not called
Amdt 56, Graham Allen	Would have added to the quarterly information return the purpose and subject matter of registered lobbying activity	Not called
Amdt 152, Caroline Lucas	Would have added to the quarterly information return the amount of money received by the lobbyist	Not called  <b>Clause 5 ordered to stand part</b>
<i>Clause 6</i>  <i>Duty to update register</i>		
Lab amdt 38	As amendment 2	Not called  <b>Clause 6 ordered to</b>

		<b>stand part</b>
<i>Clause 7</i> <i>Duty to publish register</i>		<b>Clause 7 ordered to stand part</b>
<i>Clause 8</i> <i>Duty to monitor compliance</i>		<b>Clause 8 ordered to stand part</b>
<i>Clause 9</i> <i>Information notices</i>  Lab amdt 39	As amendment 2	Not called  <b>Clause 9 ordered to stand part</b>
<i>Clause 10</i> <i>Limitations on supply and use of information</i>  Lab amdt 40	Would have widened the self-incrimination exemption, in respect of the duty to comply with an information notice, so that it would allow non-disclosure of evidence of any offence	Not called  <b>Clause 10 ordered to stand part</b>
<i>Clause 11</i> <i>Appeal against information notice</i>		<b>Clause 11 ordered to stand part</b>
<i>Clause 12</i> <i>Offences</i>  Govt amdt 81  Lab amdt 41	Consequential to amendments 76 and 77, altered the general offence of lobbying while unregistered to cover both a person and any employee of theirs lobbying in the course of that business  As amendment 2	Amdt made without vote  Not called  <b>Clause 12 as amended ordered to stand part</b>

<p><i>Clause 13</i></p> <p><i>Application to bodies corporate</i></p>		<p><b>Clause 13 ordered to stand part</b></p>
<p><i>Clause 14</i></p> <p><i>Civil penalties</i></p> <p>Lab amdt 42</p>	<p>Consequential to attempt to include a code of conduct; would have allowed a civil penalty for breach</p>	<p>Not called</p> <p><b>Clause 14 ordered to stand part</b></p>
<p><i>Clause 15</i></p> <p><i>Notice of intention to impose civil penalty</i></p>		<p><b>Clause 15 ordered to stand part</b></p>
<p><i>Clause 16</i></p> <p><i>Imposition of civil penalty</i></p>		<p><b>Clause 16 ordered to stand part</b></p>
<p><i>Clause 17</i></p> <p><i>Appeal against civil penalty</i></p>		<p><b>Clause 17 ordered to stand part</b></p>
<p><i>Clause 18</i></p> <p><i>Interaction of civil penalties and criminal proceedings</i></p>		<p><b>Clause 18 ordered to stand part</b></p>
<p><i>Clause 19</i></p> <p><i>Enforcement</i></p>		<p><b>Clause 19 ordered to stand part</b></p>
<p><i>Clause 20</i></p> <p><i>Regulations making further provision about civil penalties</i></p>		<p><b>Clause 20 ordered to stand part</b></p>
<p><i>Clause 21</i></p> <p><i>Guidance by Registrar</i></p>		<p><b>Clause 21 ordered to stand part</b></p>
<p><i>Clause 22</i></p> <p><i>Charges for registration etc</i></p> <p>Govt amdt 82</p>	<p>Consequential to amendment 77. Removed provision for charges to be paid only by those registered for VAT,</p>	<p>Amdt made without vote</p>

Lab amdt 43	<p>since those not registered for VAT will no longer be required to register as consultant lobbyists</p> <p>Would have required the Minister to ensure that the Registrar was financed in full by charges on those registered; the Bill requires the Minister to “seek to ensure” this. Miss Smith said that “I can assure the whole Committee that we are well aware of the importance of ensuring that the register is fully funded by the industry in order to protect the taxpayer,” HC Deb 9 September 2013, c787</p>	<p>Not called</p> <p><b>Clause 22 as amended ordered to stand part</b></p>
<p><i>Clause 23</i></p> <p><i>Power to make further provision</i></p> <p>Govt amdt 83</p>	<p>Consequential to amendment 77, allows regulations to provide for information to be passed from HMRC to the Registrar on VAT registration</p>	<p>Amdt made without vote</p> <p><b>Clause 23 as amended ordered to stand part</b></p>
<p><i>Clause 24</i></p> <p><i>Regulations</i></p>		<p><b>Clause 24 ordered to stand part</b></p>
<p><i>Clause 25</i></p> <p><i>Interpretation</i></p> <p>Govt amdts 84 and 85</p>	<p>Amendment 84 was consequential to amendments 76 and 77; amendment 85 was a drafting point</p>	<p>Amdts made without vote</p> <p><b>Clause 25 ordered to stand part</b></p>
<p><i>Schedule 1</i></p> <p><i>Carrying on the business of consultant lobbying</i></p> <p>Amdt 52, Graham Allen</p> <p>Govt amdts 91 and 93 to 95</p>	<p>Would have removed the exception for lobbying by businesses which are mainly non-lobbying businesses. Government accepted the argument that the exception was too broad, and allowed large lobbying companies to avoid registration if their business were diverse. Government amendments 91 and 93 to 95 addressed the issue</p> <p>A series of amendments to restrict the exception for non-lobbying businesses. The effect is that a person</p>	<p>Not called</p> <p>Amdts made without vote</p>

	does not carry out the business of consultant lobbying by virtue of making a communication, if their business consists mainly of non-lobbying activities and the communication is incidental to their carrying out those activities	
Govt amdts 92, 96 and 97	Consequential to amendments 76 and 77	Amdts made without vote
Lab amdt 17	As amendment 2	Not called
Lab amdt 18	Would have replaced the exception for non-lobbying businesses with exceptions for constituents contacting their MPs, people communicating on their own behalf, those responding to Government consultations or to calls for evidence from select or public bill committees, persons acting on behalf of Government organisations, persons acting without payment, and persons complying with court orders. This was to some extent consequential to the widening of scope to include all professional lobbyists	Not called
Lab amdt 19	Would have replaced the definition of a “non-lobbying business” with a statement of what does constitute professional lobbying: acting on behalf of a client or an employer	Not called
Lab amdts 20 and 21	Consequential to amendment 19	Not called
Lab amdts 22 and 24	As amendment 2	Not called
Lab amdts 25 and 26	Would have removed one of the exemptions for those acting as representatives of a class of persons: the case of a representative whose income does not derive from those represented, and who does not receive payment from them for the communication. This exemption was intended to cover charities	Not called
Amdt 151, Graham Allen	This amendment was supported by the Government, and was moved by Miss Smith. It removed from the definition of “payment” the salaries and allowances of members of either House of Parliament as such	Amdt made without vote <b>Schedule 1 as amended agreed to</b>
<i>Schedule 2</i> <i>Registrar</i>		
Govt amdt 98	Extended the provision that a person cannot become Registrar within five years of having carried out the business of consultant lobbying to include anyone who was employed by a person carrying out that business	Amdt made without vote

Lab amdt 31	Would have inserted a requirement for the Minister to consult the Political and Constitutional Reform Committee before appointing the Registrar	Not called
Amdt 138, Lady Hermon	Would have made the appointment of the Registrar subject to approval by resolution of both Houses of Parliament (this, rather than amendment 31 above, was supported by Graham Allen, Chair of the Political and Constitutional Reform Committee)	Not called <b>Schedule 2 as amended agreed to</b>
<i>New clause 1</i>  <i>Duty to apply code of conduct</i>  Labour	Would have required the Registrar to prepare a code of conduct. This would be done through consultation, including with the Political and Constitutional Reform Committee, and the code would be laid before Parliament. It would include a prohibition on inappropriate financial relations between those registered and parliamentarians	Not called
<i>New clause 2</i>  <i>Disclosure of names of professional lobbyists</i>  Labour	Would have required the Government to name any professional lobbyists working for it, including Government employees, governing party employees, consultants and contractors	Not called
<i>New clause 5</i>  <i>Definition of consultant lobbying</i>  Anne Main	Would have created a different definition of consultant lobbying so as to include anything aimed at influencing central, local or devolved government, Parliament or a devolved legislature, or a public authority, or advising others on how to do so, if a reasonable person in command of the facts would assume it was so intended; would have defined "business" as any undertaking, including a charitable one; and would have made various other detailed changes to the definitions and exceptions	Not called
<i>New clause 7</i>  <i>Professional lobbyists taking up employment in government</i>  Labour	Would have made appointments of registered lobbyists to senior civil service or equivalent government positions subject to scrutiny by a committee, and would have allowed the Minister to make regulations restricting their activities	Not called
<i>Title</i>  Lab amdt 44	As amendment 2	Not called

### 3.3 Third party campaigning – Part 2 of the Bill

Part 2 of the Bill was debated on [10 September 2013](#). Debate focused on clause 26 (meaning of “controlled expenditure”); Schedule 3; and clause 27 (changes to existing limits), but they were not amended. However, the Deputy Leader of the House of Commons, Tom Brake, promised that amendments would be made at report stage to reflect the announcement made on 6 September 2013 (see section 2.5, above).<sup>38</sup> Mr Brake said that the amendments would be discussed with the Electoral Commission and the NCVO prior to final drafting.<sup>39</sup> (In a briefing note on the Bill, the Electoral Commission had said that it supported the policy intention of the amendments that sought to clarify the scope of the definition of controlled expenditure.<sup>40</sup>)

Other issues raised in the debate on part 2 of the Bill were:

- the potential impact on election campaigns in devolved areas. Although the Bill is principally aimed at regulating parliamentary elections, the new definition in clause 26 would affect third parties campaigning there. The Electoral Commission has asked for clarification of the new definition’s impact on referendum campaigning.<sup>41</sup>
- the ‘chilling effect’ of any new definition for charities, which might inhibit campaigning on policy choices for at least a year before a general election.

For UK general elections, charities in Scotland would need to register as third party campaigners if they planned to spend over the new limit of £2000 in clause 27 of the Bill, rather than £5000 as at present. The Government have not indicated any plans to amend clause 27

Although the remaining clauses in part 2 were not debated, there were some minor Government drafting amendments to clauses 29 and 32. The Electoral Commission expressed concerns about enforcing the expenditure limits.<sup>42</sup>

This was due to the potential difficulties in obtaining information needed to identify breaches of the law and the possibilities for dispute over the meaning of the spending focused on constituencies. The Commission briefing also clarified that clause 29 (targeted expenditure limits) would enable non-party campaigners to spend above the limits provided that there was authorisation from the relevant party, and that the expenditure counted against the party limit.

In the table below, amendments are attributed to the Government, or to an opposition party if tabled by the front bench, or to the first Member whose name is given on the amendment paper even if others added their names.

Clause and Amendments	Debate	Outcome
	Tuesday 10 September 2013 – Committee of the	

<sup>38</sup> [HC Deb 10 September 2013 c857](#)

<sup>39</sup> [HC Deb 10 September 2013 c893](#)

<sup>40</sup> Electoral Commission, *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill 2013 Amendment briefing*, 10 September 2013, p2

<sup>41</sup> Electoral Commission, *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill 2013 Amendment briefing*, 10 September 2013, p3

<sup>42</sup> Electoral Commission, *Transparency of Lobbying, Non Party Campaigning and Trade Union Administration Bill 2013 Amendment briefing*, 10 September 2013, p7

	whole House: <a href="#">Amendment Paper</a>	
<i>Clause 26</i>	<a href="#">HC Deb 10 September 2013 cc854-910</a> Debate took place on Amdt 47, the other amendments were grouped with it, but no other amendments were moved.	
<i>Meaning of “controlled expenditure”</i>		
Amdt 47, John Thurso Lab amdt 62 Amdt 46, John Thurso Amdt 131, Graham Allen Lab amdt 64	Amdts 47 and 46 together (and amdt 62) would have removed the new definitions of “election campaign” and “for election purposes”. Amdt 131 defined “for election purposes” differently. Amdt 64 would have removed “or in connection with” in defining “for election purposes”.  John Thurso, who moved amendment 47, said that his intention was to “leave the status quo in place” (c857)  Tom Brake said that the Government “intend to introduce amendments on Report that will address many of the concerns that [hon. Members] have expressed”.	Amendment withdrawn  Amdts 62, 46, 131 and 64 not called
SNP amdt 168 SNP amdt 169	Amdts 168 and 169 limited the way the changes to the definition of “controlled expenditure” would apply to Scotland.	Not called
Amdt 132, Graham Allen Amdt 133, Graham Allen Amdt 134, Graham Allen Amdt 162, Graham Allen Lab amdt 167	Amdts 132, 133, 134, 162 and 167 proposed changes to the definition of “qualifying expenses” in Schedule 3.	Not called
NC 4, John Thurso	NC 4 confirmed the intention that charitable or non-party campaigning was not limited unless it sought to influence the outcome of an election.	Not called
NC 6, Graham Allen	NC 6 required each third party in a group to report its own expenditure.	Not called
Lab NC 9 NC 10, Caroline Lucas	NCs 9 and 10 required reports on the operation of aspects of the legislation.	Not called
		<b>Clause 26 ordered to stand part,</b> on division: Ayes 298, Noes 245
<i>Schedule 3</i>	Debated with clause 26	<b>Schedule 3 agreed to:</b> Ayes 296, Noes 247
<i>Controlled expenditure: qualifying expenses</i>		
<i>Clause 27</i>	<a href="#">HC Deb 10 September 2013 cc910-946</a> Debate took place on Amdt 101, the other	

<p><i>Changes to existing limits</i></p> <p>Amdt 101, Jacob Rees-Mogg</p> <p>Lab amdt 66</p> <p>Lab amdt 165</p>	<p>amendments were grouped with it, but no other amendments were moved.</p> <p>Would have prevented third parties that had received public money in the year before the regulated period from incurring controlled expenditure in the regulated period</p> <p>Would have deleted the reduction in the limits at which third parties are required to notify the Electoral Commission</p> <p>Would delay the introduction of the reduction in third party spending limits until the Electoral Commission had reported on the impact of the proposed changes.</p>	<p>Amendment withdrawn</p> <p>Not called</p> <p>Not called</p> <p><b>Clause 27 ordered to stand part,</b> on division: Ayes 291, Noes 260</p>
<p><i>Clause 28</i></p> <p><i>Constituency limits</i></p>	<p>No debate</p>	<p><b>Clause 28 ordered to stand part,</b> on division: Ayes 293, Noes 248</p>
<p><i>Clause 29</i></p> <p><i>Targeted expenditure limits</i></p> <p>Govt amdt 86 Govt amdt 87</p>	<p>No debate</p> <p>Drafting amendments: authorisation for third parties to target expenditure at a particular registered party has to be given by the registered party</p>	<p>Amdts made without vote</p> <p><b>Clause 29, as amended, ordered to stand part</b></p>
<p><i>Clause 30</i></p> <p><i>Extension of power to vary specified sums</i></p>	<p>No debate</p>	<p><b>Clause 30 ordered to stand part</b></p>
<p><i>Clause 31</i></p> <p><i>Notification requirements for recognised third parties</i></p>	<p>No debate</p>	<p><b>Clause 31 ordered to stand part</b></p>
<p><i>Clause 32</i></p> <p><i>Reporting of donations to recognised third parties</i></p>	<p>No debate</p>	

Govt amdt 88 Govt amdt 89  Govt amdt 90	Amendments to confirm the application of forfeiture orders to recognised third parties.  Amdt to correct drafting error	Amdts made without vote  <b>Clause 32, as amended, ordered to stand part</b>
<i>Schedule 4</i>  <i>Requirements of quarterly and weekly donation reports</i>	No debate	<b>Schedule 4 agreed to</b>
<i>Clause 33</i>  <i>Statements of accounts by recognised third parties</i>	No debate	<b>Clause 33 ordered to stand part</b>
<i>Clause 34</i>  <i>Third party expenditure in respect of candidates</i>	No debate	<b>Clause 34 ordered to stand part</b>
<i>Clause 35</i>  <i>Functions of Electoral Commission with respect to compliance</i>	No debate	<b>Clause 35 ordered to stand part</b>

### 3.4 Trade union administration – Part 3 of the Bill

Part 3 of the Bill was debated on [11 September 2013](#). Debate was limited to clauses 36 and 37 due to conclusion of proceedings in accordance with a programme order. The Government did not table any amendments to Part 3 and all those proposed by the Opposition were negated on division.

The Shadow Business Minister, Ian Murray, opposed Part 3 generally, stating that

... no one, including officials of the Department for Business, Innovation and Skills, the discussion paper, the explanatory notes, the trade unions and, I bet, even the Minister can tell the Committee what problem the Bill is trying to resolve.<sup>43</sup>

Mr Murray was critical of the fact Part 3 was being debated without the Committee having seen an impact assessment or the results from the Government's consultation.<sup>44</sup> He argued that the changes to the requirements around trade unions' registers of members were ideologically driven and lacked adequate pre-legislative scrutiny.<sup>45</sup> In addition to a broad attempt at reducing the burden for unions that the Opposition argued would be occasioned by the Bill, Labour's amendments sought to address a number of human rights concerns raised by trade unionists and lawyers. The campaigning organisation Liberty had argued

<sup>43</sup> [HC Deb 11 September 2013 c987](#)

<sup>44</sup> [Ibid](#)

<sup>45</sup> [Ibid, c990](#)

that Part 3 of the Bill should be removed in its entirety and in its current form would breach the Article 11 right to freedom of assembly under the European Convention on Human Rights.<sup>46</sup> Liberty had also argued that new powers for the Certification Officer proposed in the Bill would be incompatible with the Article 8 right to privacy.<sup>47</sup>

For the Government, the Parliamentary Under Secretary of State for Employment Relations, Jo Swinson, stated that the main justification of Part 3 is that “unions can take action that may have widespread consequences beyond the immediate members of the organisations” and it is therefore important that “unions should be able visibly to demonstrate that they know who their members are and that they can communicate with them”.<sup>48</sup> As to the impact assessment, Ms Swinson stated that this had been available on GOV.UK from 3 September 2013 but had not been placed in the Vote Office due to an oversight.<sup>49</sup> She said that

Using the best estimate figures that have been put together, the assessment identifies that the combined annual total cost of producing the membership audit certificates across all 166 unions will be £461,225...<sup>50</sup>

The Government’s main reasons for rejecting the Opposition’s amendments were that they added unnecessarily to existing statutory protections and would in some cases have increased the regulatory burden on unions.

Clause and Amendments	Debate	Outcome
<p><i>Clause 36</i></p> <p><i>Duty to provide membership audit certificate</i></p> <p>Lab amdts 103, 104, 106 and 121</p>	<p><a href="#">HC Deb 11 September 2013 cc986-1059</a></p> <p>Amendment 103 would have removed the duty annually to provide membership audit certificates. It would have replaced that duty with a duty to provide a certificate only when a complaint (by any third party) about the accuracy of the register is made to the Certification Officer, and the Certification Officer determines that a certificate is required. Amendment 121 was a consequential amendment relating to amendment 103. Labour argued that the removal of the duty in clause 36 was due to an absence of evidence that it was needed. The Government argued that clause 36 was necessary to assure the public that unions’ membership lists were accurate.</p> <p>Amendment 104 would have allowed a union to delay submission of its membership audit certificate in the</p>	<p>Negatived on division: Ayes 241- Noes 292</p>

<sup>46</sup> [Ibid, cc-1066-1069](#)

<sup>47</sup> [Ibid, c1067](#)

<sup>48</sup> [Ibid, c1047](#)

<sup>49</sup> [Ibid, c1047-1048](#)

<sup>50</sup> [Ibid, c1048](#)

	<p>event that it appeals the certificate. The Government argued that the amendment was unnecessary as unions would see certificates before they were provided to the Certification Officer.</p> <p>Clause 36 would provide that a person could request to see a copy of a union's most recent audit certificate, for which the union may charge a fee; amendment 106 would have modified the way in which unions arrive at that fee.</p>	<p><b>Clause 36 ordered to stand part</b></p>
<p><i>Clause 37</i></p> <p><i>Duty to appoint an assurer etc</i></p> <p>Lab amdts 107–111, 115-120, 166</p>	<p><a href="#">HC Deb 11 September 2013 cc1060-1091</a></p> <p>Several of these amendments intended to address concerns voiced by some regarding disclosure of data to assurers. The Shadow Minister, Ian Murray, stated that advice from the campaigning organisation Liberty indicated that Part 3 of the Bill may breach the right to privacy contained in article 8 of the European Convention on Human Rights, as well as the right to freedom of assembly in article 11. Amendments 107 and 119 would have placed on assurers a duty of confidentiality to trade unions and their members, and required assurers to abide by unions' obligations under the <i>Data Protection Act 1998</i>. Amendment 109 would have prevented the appointment or reappointment of an assurer if that person had breached the confidentiality of the union, statutory duties or terms of appointment, or where there are reasonable circumstances justifying removing the assurer. The Government argued that the amendments were unnecessary as assurers would already be subject to the <i>Data Protection Act 1998</i> and failure to abide by data protection duties would put them in breach of contract with unions.</p> <p>The Bill would necessitate secondary legislation prescribing conditions that must be met in order to become an assurer. Amendment 108 would have required these conditions to include qualifications, status and experience. The Government argued that there was already a statutory process - used for the appointment of union ballot scrutineers - that would be followed.</p> <p>Amendment 110 would have removed the requirement for unions to set out in their rules the method for appointing and removing assurers, replacing it with a method of appointment defined in statute. The Government argued the amended clause would have</p>	<p>Negatived on division: Ayes 226- Noes 290</p>

<p>Lab amdt 112</p>	<p>been more prescriptive than the approach set out in the Bill.</p> <p>Amendment 111 would have removed the requirement that assurers give an opinion on the adequacy of unions' systems for compiling their registers. It would have replaced this with a requirement to provide an opinion about whether the union had complied with its duty to keep its register up to date. The Government argued that the amendment was more onerous and would be more costly than the existing provisions of the Bill.</p> <p>Amendment 115 would have given an assurer the right to access information from employers where the assurer considers this necessary for the performance of his duties. The Government argued that the amendment was unnecessary as unions would not be penalised for the failure of employers to provide accurate information. The Minister, Jo Swinson, stated that the Government would publish new guidance for employers to help them assist unions to comply with their duties.</p> <p>Amendment 116 would have restricted an assurer's data collection from a trade union to collection only from the union's data controller. Amendment 117 would have limited the assurer's right to require information from unions to circumstances where this does not conflict with the union's data protection obligations. The Government argued that this could result in assurers being unable to ask questions of the right people.</p> <p>Amendment 118 would have changed the wording of assurers' confidentiality requirements.</p> <p>Amendment 120 would have restricted the circumstances in which disclosure of a union member's address is permitted, limiting this to where the member consents. The amendment was intended to address privacy concerns in light, particularly, of concerns about blacklisting. The Minister reiterated her comments about existing privacy safeguards (see above).</p> <p>Amendment 166 would have required the Secretary of State to produce guidance for assurers.</p> <p>Amendment 112 would have set out additional requirements for membership audit certificates. It would have required an assurer to state whether there were any factors in the maintenance of the register outside the union's control. The Minister stated that there were already statutory protections to ensure unions could not be held accountable for inaccuracies in the register that</p>	<p>Negated on division: Ayes 223- Noes 224</p>
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	were beyond their control.	<b>Clause 37 ordered to stand part</b>
<i>Clause 38</i> <i>Investigatory powers</i>	<a href="#">HC Deb 11 September 2013 c1094</a> The clause was not debated due to conclusion of proceedings in accordance with a programme order.	<b>Clause 38 ordered to stand part</b>
<i>Clause 39</i> <i>Enforcement</i>	<a href="#">HC Deb 11 September 2013 c1094</a> As above.	<b>Clause 39 ordered to stand part</b>

## 4 Report and Third Reading

The Report Stage took place over two days, 8 – 9 October 2013, with Third Reading also on 9 October. The programme order of 3 September 2013 provided two days: debate on Report was to be concluded one hour before the moment of interruption on the second day. This programme order was amended on 8 October: Part 1 of the Bill was to be considered on the first day and the rest of the Bill, and Third Reading, on Day 2.<sup>51</sup>

### 4.1 Report Stage: Part 1

The Report Stage debate on Part 1 of the Bill took place on 8 October 2013, at [columns 75 – 130](#). The substantive changes made, all by Government amendments made without vote, were as follows:

**Schedule 1** was amended by removing paragraphs 1 and 2. These were a saving from the Bill of anything touching on parliamentary privilege or exclusive cognisance, and the exemption for MPs making communications on behalf of constituents.

The privilege paragraph was removed as a result of concerns that it might have an unintended reverse effect, inviting the views of the courts on the very issue it sought to remove from them, that freedom of speech in Parliament should not be open to question in court. The Government preferred to rest on the existing provisions in the *Bill of Rights 1689*. For the same reason, it resisted Bernard Jenkin’s attempt to introduce in New Clause 1 an explicit reference to the Bill of Rights (Mr Jenkin withdraw his New Clause).

The MP exemption was redundant as a result of an amendment in committee which introduced a different exemption based on the receipt of parliamentary salaries and allowances. Andrew Lansley argued that there was now a double protection for MPs: they were not engaged in a business, and the Bill explicitly provided that their parliamentary salaries and allowances were not to be regarded as payments for the purposes of the Bill. Members of the House of Lords would be exempt insofar as they carried out their public duties, since the payment for these would likewise be disregarded. However, while Members of the Commons would be precluded from contacting Ministers or permanent secretaries in return for any other payment under the Code of Conduct, Mr Lansley argued that the parallel restrictions on Members of the Lords would prohibit only paid advocacy in the House or advising others on the proceedings of the House. As a result, it was possible that some

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<sup>51</sup> [HC Deb 8 October 2013 cc63-74](#)

Members of the Lords might be required to register in respect of their outside business activities.<sup>52</sup>

There were a number of other Government amendments of a technical or consequential nature.

There was a division on Labour's New Clause 4, which would have required the Registrar to prepare a Code of Conduct. It was negated by 292 to 224.<sup>53</sup>

#### **4.2 Report Stage: Part 2**

The Report Stage debate on Part 2 of the Bill took place on 9 October 2013, at [columns 170 – 252](#).

The Government brought forward a group of amendments to clause 26 and schedule 3, on the meaning of “controlled expenditure”, following the undertaking in Committee to “revert to a test based on the wording in the existing legislation”. However, the amendments did not restore the original PPERA definition of what constitutes “controlled expenditure” for third parties, as the Electoral Commission had requested changes to the definition.<sup>54</sup> The Minister, Tom Brake, said:

Government amendment 33 removes the additional test that expenditure might otherwise enhance the standing of a party or candidate. I hope that charities and campaigning organisations will see this as a positive step in providing them with greater clarity. Although we do not consider it to be a significant change, we recognise that this additional limb of the existing PPERA test was perhaps less clear and might have suggested a more remote connection from promoting electoral success, and we want to be clear that that is not our aim. This should provide further clarity and reassurance to campaigners as to the test they have to meet in order to incur controlled expenditure.

The Government believe that these amendments, together with the existing prohibition under charity law of party political activity by charities, should give charities the reassurance they have sought. Only activities that can reasonably be regarded as intended to promote or procure electoral success of a party or candidates will be subject to the provisions in the Bill.

The Government amendments to schedule 3 provide further reassurance and clarity. As we discussed in Committee, schedule 3 takes forward a recommendation from the independent Electoral Commission to align the activities by which third parties incur controlled expenditure with the situation for political parties. I am assuming that Labour Members do not object in principle to our doing what the Electoral Commission has asked us to do in that respect. The amendments replace the separate listings for advertising, unsolicited material and manifestos or policy documents with a reversion to the existing description of election “materials”. This is language already used in PPERA and with which third parties and the Electoral Commission are already familiar. The Electoral Commission already has guidance on this area, and we recognise the benefit of that familiarity. In other words, in relation to that particular area of activity charities will have the certainty that they acquired from the elections fought in 2005 and 2010.

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<sup>52</sup> [HC Deb 8 October 2013 cc92-3](#)

<sup>53</sup> [HC Deb 8 October 2013 cc95-119](#)

<sup>54</sup> [HC Deb 9 October 2013 cc199-200](#), the Electoral Commission's proposals were included in Electoral Commission, *A regulatory review of the UK's party and election finance laws: recommendations for change*, June 2013

We are making it clear that only public rallies and events are regulated, in line with the existing “publicity” test for election material set out in existing commission guidance. The effect of this is that events to which the public are not admitted, such as meetings or events for an organisation’s members or committed supporters, will not be regulated. There is also an explicit exception for annual conferences—the TUC was very keen on that—as is the case for political parties. That should reinforce the message that we are not seeking to regulate the ordinary activities of charities, non-governmental organisations or other campaigners. Similarly, we are making it clear that canvassing or market research must involve the public at large, not just a third party’s members or supporters. We are also removing the limitation that only canvassing which “ascertains polling intentions” is captured by the Bill. That removes any potential ambiguity.

In relation to dealings with the media, the amendments mean that only press conferences and other organised media events will be regulated. Third-party campaigners who respond to ad hoc media questions on specific policy issues will not be covered by the Bill. If a third party organises a major media conference to which it invites the press, TV and radio, and during the course of that conference says, “Vote for party X”, then that will be caught, and quite right too.

Let me emphasise that in all these cases only activities that can reasonably be regarded as intended to promote or procure the electoral success of a party or candidate will be subject to regulation. I suspect that all Members will be thoroughly sick of that phrase by the end of today, but I will not stop repeating it.<sup>55</sup>

The NCVO has continued to argue that the ministerial assurances of 6 and 26 September 2013, relating to the definition of controlled expenditure, have not been met.<sup>56</sup>

The Government did not amend the new thresholds for registering as a third party set out in clause 27, although a number of MPs expressed concern about the uncertainties for charities and third parties in Scotland, Wales and Northern Ireland, where the new threshold was only £2,000. These new thresholds will apply for devolved elections.<sup>57</sup> Concern was expressed that the 365 day regulated period for the general election might affect other elections and the voicing of opinion.<sup>58</sup> The Government clarified that the new controls in clauses 26 and 27 would not apply in the referendum on Scottish independence.<sup>59</sup>

Debate ended at 6pm in accordance with the programme order. Debate had begun on a group of amendments relating to various aspects of third party spending limits, reporting requirements and the role of the Electoral Commission.

### **4.3 Report Stage: Part 3**

No amendments were made to Part 3 of the Bill at Report Stage. Due to conclusion of debate in line with a Programme Order, amendments to Part 3 of the Bill were not debated.<sup>60</sup>

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<sup>55</sup> [HC Deb 9 October 2013 c204](#)

<sup>56</sup> [HC Deb 9 October 2013 c199](#)

<sup>57</sup> See [Electoral Commission Amendment Briefing](#) 10 September p3

<sup>58</sup> [HC Deb 9 October 2013 c172](#)

<sup>59</sup> [HC Deb 9 October 2013 c194](#)

<sup>60</sup> [HC Deb 9 October 2013 c248](#)

#### 4.4 Third Reading

The Third Reading debate took place on 9 October 2013, at [columns 253-268](#). The Bill was given a third reading: the motion was passed with 304 voting in favour and 260 voting against.<sup>61</sup>

Andrew Lansley restated the purpose of the Bill and argued that the Bill fulfilled its purpose:

The purpose of the Bill is to achieve transparency by fulfilling our coalition commitment to introduce a statutory register of lobbyists so that the public know who lobbyists represent when they meet decision makers, and by making it clearer where and how money is being spent by third parties at elections to influence the outcomes of those elections. We are also seeking transparency by giving the public, and members of trade unions, the confidence that they know who their members are. Together, those measures will increase transparency in the political system.<sup>62</sup>

For the Opposition, Angela Eagle continued to argue that “the Bill will do absolutely nothing to shine the light of transparency on lobbying” and that “the Bill seeks to silence critics of the Government in the run-up to the general election, while letting vested interests operate out of sight”.<sup>63</sup>

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<sup>61</sup> [HC Deb 9 October 2013 cc264-268](#)

<sup>62</sup> [HC Deb 9 October 2013 c254](#)

<sup>63</sup> [HC Deb 9 October 2013 c257](#)