

---

DRAFT STATUTORY INSTRUMENTS

---

**2012 No.**

**The Police and Crime Commissioner Elections Order 2012**

**PART 3**

**The election campaign**

*Candidate election expenses*

**Authorised excuses for failures as to return and declarations**

**45.**—(1) A candidate or the candidate's election agent may apply for relief under this article to the High Court, an election court or a county court.

(2) Where a person makes an application under this article, the person must notify the Director of Public Prosecutions of the application and the Director or any assistant of the Director or any barrister, solicitor or authorised person duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) Relief under this article may be granted—

- (a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them, or
- (b) to an election agent, in respect of the failure to deliver the return and declarations which the agent was required to deliver, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness, or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of the candidate's election agent or sub-agent or of any clerk or officer of such agent, or
- (c) where the applicant is the election agent—
  - (i) by reason of the death or illness of any prior election agent of the candidate, or
  - (ii) by reason of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate, or

(d) by reason of inadvertence or any reasonable cause of a like nature,  
and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the police area as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the applicant, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) Where it is proved to the court by the candidate—

- (a) that any act or omission of the election agent in relation to the return and declarations was without the sanction or connivance of the candidate, and
- (b) that the candidate took all reasonable means for preventing the act or omission,

the court must relieve the candidate from the consequences of the act or omission of the candidate's election agent.

(7) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part.

(8) An order under paragraph (5) has the effect of relieving the applicant for the order from any liability or consequences in respect of the matter excused by the order that would otherwise arise under this Order.

(9) The date of the order or, if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Order as the date of the allowance of the excuse.