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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

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

**PART 3**

**The election campaign**

*Other illegal practices, payments or employments*

**Details to appear on election publications**

**64.**—(1) This article applies to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at a PCC election (whether or not it can be so regarded as intended to achieve any other purpose as well).

(2) No material to which this article applies may be published unless—

- (a) in the case of material which is, or is contained in, such a document as is mentioned in paragraph (4), (5) or (6), the requirements of that paragraph are complied with, or
- (b) in the case of any other material, any requirements falling to be complied with in relation to the material by virtue of regulations under paragraph (7) are complied with.

(3) For the purposes of paragraphs (4) to (6), the following details are “the relevant details” in the case of any material falling within paragraph (2)(a), namely—

- (a) the name and address of the printer of the document,
- (b) the name and address of the promoter of the material, and
- (c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(4) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.

(5) Where the material is a printed document other than one to which paragraph (4) applies, the relevant details must appear either on the first or the last page of the document.

(6) Where the material is an advertisement contained in a newspaper or periodical—

- (a) the name and address of the printer of the newspaper or periodical must appear either on its first or last page, and
- (b) the relevant details specified in paragraph (3)(b) and (c) must be included in the advertisement.

(7) The Secretary of State may, after consulting the Commission, by regulations made by statutory instrument make provision for and in connection with the imposition of requirements as to the inclusion in material falling within paragraph (2)(b) of the following details, namely—

- (a) the name and address of the promoter of the material, and
- (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

- (8) Regulations under paragraph (7) may in particular specify—
- (a) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement;
  - (b) circumstances in which—
    - (i) any such requirement does not have to be complied with by a person of any description specified in the regulations, or
    - (ii) a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under this article by that person or by a person of any other such description;
  - (c) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of a description so specified.

(9) Where any material falling within paragraph (2)(a) is published in contravention of paragraph (2), then (subject to paragraphs (11) and (12))—

- (a) the promoter of the material,
- (b) any other person by whom the material is so published, and
- (c) the printer of the document,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(10) Where any material falling within paragraph (2)(b) is published in contravention of paragraph (2), then (subject to regulations made by virtue of paragraph (8)(b) and to paragraphs (11) and (12))—

- (a) the promoter of the material, and
- (b) any other person by whom the material is so published,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(11) It is a defence for a person charged with an offence under this article to prove—

- (a) that the contravention of paragraph (2) arose from circumstances beyond the person's control, and
- (b) that the person took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.

(12) Where a candidate or a candidate's election agent would (apart from this paragraph) be guilty of an offence under paragraph (9) or (10), that person is instead guilty of an illegal practice.

(13) In this article—

- “print” means print by whatever means, and “printer” is to be construed accordingly;
- “the promoter”, in relation to any material to which this article applies, means the person causing the material to be published;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.

(14) For the purpose of determining whether any material is material such as is mentioned in paragraph (1), it is immaterial that it does not expressly mention the name of any candidate.

(15) Regulations made under paragraph (7) are subject to annulment in pursuance of a resolution of either House of Parliament.

(16) For the purposes of section 1 of the Statutory Instruments Act 1946<sup>(1)</sup> (definition of “Statutory Instrument”), the power to make regulations which is conferred by paragraph (7) is to be taken to be conferred by an Act of Parliament.

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<sup>(1)</sup> 1946 9&10 Geo.6 (c.36).