
DRAFT STATUTORY INSTRUMENTS

2012 No.

The Police and Crime Commissioner Elections Order 2012

PART 3

The election campaign

Registration, funding and expenditure of political parties and others

Amendment of Political Parties, Elections and Referendums Act 2000

24.—(1) The 2000 Act is amended as follows.

(2) In section 22 (parties to be registered in order to field candidates at elections)—

(a) in subsection (2)(a), after “constituency,” insert “police area,”;

(b) in subsection (5), after paragraph (e), insert—

“(ea) elections of police and crime commissioners.”

(3) In section 67 (weekly donation reports in connection with elections other than general elections), in subsection (2)(b)—

(a) omit “or” at the end of sub-paragraph (iii);

(b) after sub-paragraph (iv) insert—

“or

(v) an election of a police and crime commissioner.”

(4) In Schedule 7 (control of donations to individuals and members associations)—

(a) in paragraph 1(8) (definition of “relevant elective office”), after paragraph (e) insert—

“(ea) police and crime commissioner,”;

(b) in paragraph 15A(1) (donations to holders of certain elective offices)(1), after “relevant elective office” insert “, other than a police and crime commissioner”.

Amendment of section 62 of the Electoral Administration Act 2006

25.—(1) Section 62 of the Electoral Administration Act 2006(2) (regulation of loans: power to make provision for candidates, third parties and referendums) is amended as follows.

(2) In subsection (2)(a), for “an election” substitute “a relevant election”.

(3) In subsection (8)—

(a) for the definition of “candidate” substitute—

““candidate”—

(1) Section 15A was inserted by section 59(1) and (3) of the Electoral Administration Act 2006 (c.22).

(2) 2006 c.22. Subsection (3A) was inserted by section 19(4) of the Political Parties and Elections Act 2009 (c.12).

- (a) in relation to a police and crime commissioner election, is to be construed in accordance with subsection (8A), and
- (b) in relation to any other relevant election, has the same meaning as in Part 2 of the 1983 Act;”;
- (b) omit the definition of “election”;
- (c) after the definition of “permitted participant” insert—
 - ““police and crime commissioner election” means an election of a police and crime commissioner in accordance with Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011(3);
 - “relevant election” means—
 - (a) an election within the meaning of the 1983 Act, or
 - (b) a police and crime commissioner election.”
- (4) After subsection (8) insert—
 - “(8A) For the purposes of this section, a person becomes a candidate at a police and crime commissioner election—
 - (a) on the last day for publication of notice of the election if on or before that day the person is declared by himself or herself or by others to be a candidate at the election, and
 - (b) otherwise, on the day on which the person is so declared by himself or herself or by others or on which the person is nominated as a candidate at the election (whichever is the earlier).”

The election agent

Appointment of election agent

26.—(1) Not later than the latest time for the delivery of notices of withdrawals of candidature for a PCC election—

- (a) a person must be named by or on behalf of each candidate as the candidate’s election agent, and
 - (b) the name and address of the candidate’s election agent must be declared in writing by the candidate or some other person on the candidate’s behalf to the police area returning officer.
- (2) A candidate may name himself or herself as election agent.
- (3) A candidate who names himself or herself as election agent is, so far as circumstances admit, subject to the provisions of this Order both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Order to an election agent is to be construed as referring to the candidate acting in the capacity of election agent.
- (4) One election agent only may be appointed for each candidate, but the appointment (whether the candidate appointed himself or herself as election agent or not) may be revoked.
- (5) If whether before, during or after the PCC election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies—
- (a) another election agent must be appointed forthwith, and

(b) the name and address of the election agent appointed must be declared in writing to the police area returning officer.

(6) The declaration as a candidate's election agent of a person other than the candidate is of no effect under this article unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by that person.

(7) Upon the name and address of an election agent being declared to the police area returning officer, the officer must forthwith give public notice of the name and address and must forward it to the local returning officer for each voting area wholly or partly comprised in the police area.

Nomination of sub-agent

27.—(1) An election agent for a candidate at a PCC election may appoint to act in any part of the police area one, but not more than one, deputy election agent (in this Order referred to as a "sub-agent").

(2) As regards matters in a part of the police area for which there is a sub-agent the election agent may act by the sub-agent and—

(a) anything done for the purposes of this Order by or to the sub-agent in the part of the police area for which the sub-agent acts is deemed by virtue of this sub-paragraph to be done by or to the election agent, and

(b) any act or default of a sub-agent which, if the sub-agent were the election agent, would be an illegal practice or other offence against this Order is an illegal practice and offence against this Order committed by the sub-agent, and the sub-agent is liable to punishment accordingly, and

(c) the candidate is to suffer the like incapacity as if that act or default had been the election agent's act or default.

(3) Not later than the fifth day before the day of the poll the election agent must declare in writing the name and address of every sub-agent to the police area returning officer.

(4) The appointment of a sub-agent—

(a) is not vacated by the election agent who appointed the sub-agent ceasing to be election agent, but

(b) may be revoked by whoever is for the time being the candidate's election agent,

and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and that sub-agent's name and address must forthwith be declared in writing to the police area returning officer.

(5) Upon the name and address of a sub-agent being declared to the police area returning officer under paragraph (3) or (4), the officer must forthwith give public notice of the name and address and must forward it to the local returning officer for each voting area wholly or partly comprised in the police area.

(6) The declaration to be made to the police area returning officer under paragraph (3) or (4), and the public notice to be given by the officer under paragraph (5), must specify the part of the police area within which the sub-agent is appointed to act.

Office of election agent and sub-agent

28.—(1) Every election agent and every sub-agent must have an office to which all claims, notices, legal process and other documents may be sent.

(2) The address of the office must be—

- (a) declared to the police area returning officer at the same time as the appointment of the agent is declared to the officer,
 - (b) stated in the public notice of the name of the agent, and
 - (c) forwarded by the officer to the local returning officer for each voting area wholly or partly comprised in the police area.
- (3) The office of the election agent must be within the police area.
- (4) The office of a sub-agent must be in the area within which the sub-agent is appointed to act.
- (5) Any claim, notice, legal process or other document delivered at the office of a person who is the election agent or sub-agent and addressed to that person, is deemed to have been served on that person.
- (6) The person who is acting as agent or sub-agent in a PCC election may in respect of any matter connected with the election be sued in any court having jurisdiction at the place where the person's office is situated.

Effect of default of election agent's appointment

29.—(1) If no person's name and address is given as required by article 26 as the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the candidate is deemed at that time to be appointed as election agent and any appointment of another person as the candidate's election agent is revoked by virtue of this paragraph.

- (2) If—
- (a) the person (not being the candidate) whose name and address have been so given as those of the candidate's election agent dies, and
 - (b) a new appointment is not made on the day of the death or on the following day,
- the candidate is deemed to be appointed as election agent as from the time of death.
- (3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate is deemed to be appointed (or re-appointed) as election agent.
- (4) The deemed appointment of a candidate as the candidate's own election agent may be revoked as if it were an actual appointment.
- (5) Where a candidate is by virtue of this article to be treated as the candidate's own election agent, the office of the election agent is deemed to be—
- (a) at the candidate's address as given in the statement of persons nominated (or where the address is not given on that statement, the address as given under rule 5(5) of the PCC elections rules), or
 - (b) if that address is outside the permitted area for the office, at the qualifying address of the person (or first person) named in that statement as proposer of the candidate.
- (6) The police area returning officer on being satisfied that a candidate is by virtue of this article to be treated as the candidate's own election agent, must forthwith—
- (a) give public notice to the like effect as if the name and address of the candidate and the address of the candidate's office had been duly given to the officer under articles 26 and 28, and
 - (b) forward the information to the local returning officer for each voting area wholly or partly comprised in the police area.
- (7) Paragraph (6) applies whether or not a statement has been made under rule 5(6) of the PCC elections rules requiring the candidate's home address not to be made public.

Donations to candidates

Control of donations to candidates

30.—(1) In the case of any candidate at a PCC election, any money or other property provided (whether as a gift or loan)—

(a) by any person other than the candidate or the candidate’s election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of the candidate, must be provided to the candidate or the candidate’s election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, the candidate’s election agent or any sub-agent.

(3) A person who provides any money or other property in contravention of paragraph (1) is guilty of an illegal practice.

(4) Schedule 5 has effect for the purpose of controlling donations to candidates.

(5) In this article and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

Candidate election expenses

Payment of candidate election expenses through election agent

31.—(1) Subject to paragraph (4), no payment (of whatever nature) may be made by—

(a) a candidate at a PCC election, or

(b) any other person,

in respect of election expenses incurred by or on behalf of the candidate unless it is made by or through the candidate’s election agent.

(2) Every payment made by an election agent in respect of any election expenses must, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in paragraphs (1) and (2) to an election agent are to be taken as references to the election agent acting by himself or herself or by a sub-agent.

(4) This article does not apply to—

(a) any expenses which are, in accordance with article 32(1) or (2), 37(6) or 38(2), paid by the candidate,

(b) any expenses which are paid in accordance with article 32(4) by a person authorised as mentioned in that provision,

(c) any expenses included in a declaration made by the election agent under article 33, or

(d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of article 50(5).

(5) A person who makes any payment (of whatever nature) in contravention of paragraph (1) is guilty of an illegal practice.

Candidate election expenses which may be paid otherwise than by election agent

32.—(1) The candidate at a PCC election may pay any personal expenses incurred by the candidate on account of or in connection with or incidental to the election but—

- (a) the amount which a candidate may pay must not exceed £5,000, and
- (b) any further personal expenses so incurred by the candidate must be paid by the candidate's election agent.

(2) The candidate at a PCC election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by or on behalf of the candidate and in respect of which payment falls to be made before the date on which the candidate appoints (or is deemed to have appointed) an election agent.

(3) The candidate must send to the candidate's election agent within the time limited by this Order for sending in claims a written statement of the amount of expenses paid as mentioned in paragraph (1) or (2) by the candidate.

(4) Any person may, if so authorised in writing by the candidate's election agent, pay any necessary expenses for stationery, postage, telegrams (or any similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named must be paid by the election agent.

(5) A statement of the particulars of payments made by any person so authorised must be sent to the election agent within the time limited by this Order for sending in claims, and must be vouched for by a bill containing that person's receipt.

(6) Articles 37 and 38 do not apply to expenses which, in accordance with any provision of this article, are paid otherwise than by the candidate's election agent.

Candidate election expenses incurred otherwise than for election purposes

33.—(1) Articles 31, 37 and 38 do not apply to election expenses—

- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of article 50(1) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent must make a declaration of the amount of any election expenses falling within paragraph (1).

(3) In this article "for the purposes of the candidate's election" has the same meaning as in articles 50 and 51.

Prohibition of candidate election expenses not authorised by election agent

34.—(1) No expenses may, with a view to promoting or procuring the election of a person who becomes a candidate at a PCC election, be incurred after the person becomes a candidate at the election by anyone other than the candidate, the candidate's election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display, or
- (b) of issuing advertisements, circulars or publications, or
- (c) of otherwise presenting to the electors the candidate or the views of the candidate or the extent or nature of the candidate's backing or disparaging another candidate.

(2) Paragraph (1)(c) does not restrict the publication of any matter relating to the election in—

- (a) a newspaper or other periodical,
- (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or

- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990⁽⁴⁾ (independent television and radio services) or Part 1 or 2 of the Broadcasting Act 1996⁽⁵⁾ (digital terrestrial television and sound broadcasting).
- (3) Paragraph (1) does not apply to any expenses incurred by any person—
- (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or
- (b) in travelling or in living away from home or similar personal expenses.
- (4) For the purposes of paragraph (3)(a), the permitted sum in respect of a candidate at a PCC election for a police area listed in an entry in the first column of table 1 is the amount shown for that entry in the second column.

Table 1

<i>Police area</i>	<i>Permitted sum</i>
Avon & Somerset	£ 6,278
Bedfordshire	£ 2,347
Cambridgeshire	£ 3,055
Cheshire	£ 4,015
Cleveland	£ 2,155
Cumbria	£ 2,024
Derbyshire	£ 3,993
Devon and Cornwall	£ 6,573
Dorset	£ 3,003
Durham	£ 2,499
Dyfed-Powys	£ 2,035
Essex	£ 6,605
Gloucestershire	£ 2,422
Greater Manchester	£ 10,046
Gwent	£ 2,199
Hampshire	£ 7,345
Hertfordshire	£ 4,260
Humberside	£ 3,557
Kent	£ 6,433
Lancashire	£ 5,682
Leicestershire	£ 3,952
Lincolnshire	£ 2,805
Merseyside	£ 5,139

(4) 1990 c.42.

(5) 1996 c.55.

<i>Police area</i>	<i>Permitted sum</i>
Norfolk	£ 3,392
North Wales	£ 2,674
North Yorkshire	£ 3,142
Northamptonshire	£ 2,686
Northumbria	£ 5,507
Nottinghamshire	£ 4,116
South Wales	£ 4,904
South Yorkshire	£ 5,030
Staffordshire	£ 4,314
Suffolk	£ 2,828
Surrey	£ 4,345
Sussex	£ 6,197
Thames Valley	£ 8,551
Warwickshire	£ 2,144
West Mercia	£ 4,750
West Midlands	£ 10,080
West Yorkshire	£ 8,098
Wiltshire	£ 2,630

(5) For the purposes of paragraph (3)(a), expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding paragraph (3)(a)) fall within paragraph (1).

(6) Where a person incurs any expenses required by this article to be authorised by the election agent—

- (a) that person must within 21 days after the day on which the result of the election is declared deliver to the police area returning officer a return of the amount of those expenses, stating the PCC election at which and the candidate in whose support they were incurred, and
- (b) the return must be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the candidate or the election agent of a candidate.

(7) The return and declaration under the preceding provisions of this article must be in Form 24 and Form 25 set out in Schedule 6 or a form to like effect, and the authority received from the election agent must be annexed to the return and is deemed to form part of it.

(8) The police area returning officer must forward to the registration officer for each local authority wholly or partly comprised in the police area every document sent to the officer in pursuance of paragraph (7), and rule 68 of the PCC elections rules shall apply to any such documents.

(9) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this article, or
- (b) knowingly makes the declaration required by paragraph (6)(b) falsely,

that person is guilty of a corrupt practice.

(10) If a person fails to deliver or send any declaration or return or a copy of it as required by this article the person is guilty of an illegal practice.

(11) The court before which a person is convicted under paragraph (9) or (10) may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (read with article 77) (incapacities on conviction of corrupt or illegal practices).

(12) A candidate is not liable and the candidate's election is not to be avoided for a corrupt or illegal practice under paragraph (9) or (10) committed by an agent without the candidate's consent or connivance.

(13) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this article, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed guilty of that offence by virtue of this paragraph, unless that person proves—

- (a) that the act or omission took place without the person's consent or connivance, and
- (b) that the person exercised all such diligence to prevent the commission of the offence as the person ought to have exercised having regard to the nature of the person's functions in that capacity and to all the circumstances.

(14) For the purposes of paragraph (1), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with anything which is used or takes place after that date.

(15) References in this article to an election agent include a sub-agent.

Limitation of candidate election expenses

35.—(1) The election expenses incurred by or on behalf of a candidate at a PCC election must not in the aggregate exceed the maximum amount specified in the table in paragraph (2).

(2) For the purposes of paragraph (1), the maximum amount in respect of a candidate at a PCC election for a police area listed in an entry in the first column of table 2 is the amount shown for that entry in the second column.

Table 2

<i>Police area</i>	<i>Maximum amount</i>
Avon & Somerset	£ 222,851
Bedfordshire	£ 83,681
Cambridgeshire	£ 108,754
Cheshire	£ 142,720
Cleveland	£ 76,889
Cumbria	£ 72,231

<i>Police area</i>	<i>Maximum amount</i>
Derbyshire	£ 141,933
Devon and Cornwall	£ 233,281
Dorset	£ 106,888
Durham	£ 89,055
Dyfed-Powys	£ 72,622
Essex	£234,412
Gloucestershire	£ 86,344
Greater Manchester	£ 356,204
Gwent	£ 78,422
Hampshire	£ 260,591
Hertfordshire	£ 151,378
Humberside	£ 126,520
Kent	£ 228,338
Lancashire	£ 201,729
Leicestershire	£ 140,496
Lincolnshire	£ 99,900
Merseyside	£ 182,529
Norfolk	£ 120,662
North Wales	£ 95,241
North Yorkshire	£ 111,814
Northamptonshire	£ 95,663
Northumbria	£ 195,548
Nottinghamshire	£ 146,305
South Wales	£ 174,179
South Yorkshire	£ 178,637
Staffordshire	£ 153,313
Suffolk	£ 100,698
Surrey	£ 154,401
Sussex	£ 219,983
Thames Valley	£ 303,303
Warwickshire	£ 76,476
West Mercia	£ 168,735
West Midlands	£ 357,435
West Yorkshire	£ 287,255

<i>Police area</i>	<i>Maximum amount</i>
Wiltshire	£ 93,682

(3) The maximum amount is not required to cover the candidate's personal expenses.

(4) The maximum amount is not affected for any candidate by the change in the timing of the PCC election or of any step in the proceedings at the election.

(5) Where a poll at a PCC election is countermanded or abandoned by reason of a candidate's death, the maximum amount for any of the other candidates who then remain validly nominated is to be twice or, if there has been a previous increase under this paragraph, three times what it would have been but for any increase under this paragraph.

(6) Where any election expenses are incurred in excess of a maximum amount specified in paragraph (2) or (5), any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

is guilty of an illegal practice.

Power to vary provisions about candidate election expenses

36.—(1) The Secretary of State may by order made by statutory instrument vary any of the sums to which this article applies—

- (a) where the Secretary of State considers that the variation is expedient in consequence of changes in the value of money, or
- (b) in order to give effect to a recommendation of the Commission.

(2) This article applies to any of the sums for the time being specified in—

- (a) article 31(2);
- (b) article 32(1)(a);
- (c) article 34(4);
- (d) article 35(2).

(3) An order under paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946(6) (definition of "Statutory Instrument"), the power to make an order which is conferred by paragraph (1) is to be taken to be conferred by an Act of Parliament.

Time for sending in and paying claims

37.—(1) Every claim against a candidate or the candidate's election agent in respect of election expenses which is not sent in to the election agent within 21 days after the day on which the result of the election is declared is barred and must not be paid.

(2) All election expenses must be paid not later than 28 days after that day.

(3) Any person who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) is guilty of an illegal practice.

(4) Where the election court reports that it has been proved to the court that any payment made as described in paragraph (3) was by an election agent without the sanction or connivance of the candidate—

- (a) the candidate's election is not void, nor
- (b) is the candidate subject to any incapacity under this Order by reason only of that payment having been made in contravention of this article.

(5) The claimant or the candidate or the candidate's election agent may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after the period of 21 days or although sent in to the candidate and not to the election agent, and the court on cause shown to their satisfaction may by order grant the leave.

(6) Any sum specified in the order of leave may be paid by the candidate or the candidate's election agent and when paid in pursuance of the leave does not contravene paragraph (2).

Disputed claims

38.—(1) If the election agent disputes any claim sent in to the agent within the period of 21 days mentioned in article 37 or refuses or fails to pay the claim within the period of 28 days mentioned in that article, the claim is deemed to be a disputed claim.

(2) The claimant may, if the claimant thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the candidate or the candidate's election agent in pursuance of the judgment or order of the court does not contravene article 31(1) or 37(2).

(3) Article 37(5) and (6) apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

Election agent's claim

39. So far as circumstances admit, this Order applies to an election agent's claim for remuneration and to its payment in like manner as if the agent were any other creditor, and if any difference arises about the amount of the claim, the claim is a disputed claim within the meaning of this Part of this Order and is to be dealt with accordingly.

Return as to candidate election expenses

40.—(1) Within 70 days after the day on which the result of the PCC election is declared, the election agent of every candidate at the election must deliver to the police area returning officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate, and
 - (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.
- (2) A return under this article must—
- (a) specify the poll by virtue of which the return is required,
 - (b) specify the name of the candidate to whom the return relates and the name of the candidate's election agent, and
 - (c) deal under a separate heading with any expenses in respect of which a return is required by virtue of article 34(6).
- (3) The return must also contain as respects that candidate—
- (a) a statement relating to such other expenses in connection with which provision is made by this Part as the Commission provide in regulations;

- (b) a statement relating to such claims (whether paid, unpaid or disputed) in connection with such election expenses or such other expenses mentioned in sub-paragraph (a) as the Commission so provide;
 - (c) a statement relating to such other matters as the Commission provide in regulations.
- (4) Where after the date at which the return as to election expenses is delivered, leave is given by the court under article 37(5) for any claim to be paid, the candidate or the candidate's election agent—
- (a) must, within 7 days after its payment, deliver to the police area returning officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and
 - (b) in default, is to be treated as having failed to comply with the requirements of this article without such authorised excuse as is mentioned in article 45.
- (5) The Commission may, by regulations, prescribe a form of return which may be used for the purposes of making any return (or any description of return) required by this article.

Declarations as to candidate election expenses

- 41.**—(1) The return delivered under article 40(1) must be accompanied by a declaration made by the candidate's election agent in Form 26 set out in Schedule 6 or a form to like effect.
- (2) At the same time that the candidate's election agent delivers that return, or within seven days afterwards, the candidate must deliver to the police area returning officer a declaration made by the candidate in Form 27 set out in Schedule 6 or a form to like effect.
- (3) Where the candidate is out of the United Kingdom when the return is so delivered—
- (a) the declaration required by paragraph (2) may be made by the candidate within 14 days after the candidate's return to the United Kingdom, and
 - (b) in that case, the declaration must be forthwith delivered to the police area returning officer.
- (4) But the delay authorised by paragraph (3) in making the declaration does not exonerate the candidate's election agent from complying with the provisions of this Order relating to the return and declaration as to election expenses.
- (5) Where the candidate is his or her own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses is to be made in Form 28 in Schedule 6 or a form to like effect.
- (6) A candidate or an election agent who knowingly makes the declaration required by this article falsely is guilty of a corrupt practice.

Circumstances in which no return or declaration required

- 42.** Notwithstanding anything in article 40 or 41, no return or declaration as to election expenses is required in the case of a person—
- (a) who is a candidate at a PCC election, but is so only because he or she has been declared by others to be a candidate, and
 - (b) who has not consented to the declaration or taken any part as a candidate at the election.

Penalty for failure as respects return or declarations

- 43.** Subject to the provisions of article 45, a candidate or election agent who fails to comply with the requirements of articles 40 or 41 is guilty of an illegal practice.

Disqualification where no return and declarations transmitted after PCC election

44.—(1) If, in the case of any candidate, the return and declarations as to election expenses are not delivered before the expiry of the time limited for the purpose, the candidate is, as respects that election, disqualified from being elected as, or being, a police and crime commissioner.

(2) Any application under article 45 by such a candidate for relief in respect of a failure to deliver the return and declarations as to election expenses must be made within the period of 6 weeks following the day on which the time limited for their delivery expires.

(3) A disqualification under paragraph (1) does not take effect unless or until—

- (a) the period specified in paragraph (2) for making an application for relief under article 45 expires without such an application having been made, or
- (b) if such an application is made, the application—
 - (i) is finally disposed of without relief being granted, or
 - (ii) is abandoned or fails by reason of non-prosecution.

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.

Court's power to require information from election agent or sub-agent

46.—(1) Where on an application under article 45 it appears to the court that any person ("P") who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars, as will enable the candidate and the candidate's election agent respectively to comply with the provisions of this Order as to the return or declarations as to election expenses, the court, before making an order under that article, must order P to attend before the court.

(2) The court must on the attendance of P, unless P shows cause to the contrary, order P—

- (a) to make the return and declaration, or
- (b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as the court may direct, or may order P to be examined with respect to the particulars.

(3) If P fails to comply with any order of the court under this article, the court may order P to pay a fine not exceeding the amount specified in paragraph (4).

(4) The specified amount is the amount of the maximum fine to which P would be liable if, at the time the court makes the order under paragraph (3), P were convicted of a summary offence on conviction of which P was liable to a fine of level 5 on the standard scale.

Police area returning officer to forward returns and declarations to the Commission

47. Where the police area returning officer receives any return or declaration under article 34, 40 or 41, the officer must —

- (a) as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Commission, and
- (b) if so requested by the Commission, also deliver to them a copy of any accompanying documents.

Publication of time and place for inspection of returns and declarations

48.—(1) The police area returning officer at a PCC election must within 10 days after the end of the time allowed for delivering to the officer returns as to election expenses—

- (a) publish in not less than two newspapers circulating in the police area for which the election was held, and
- (b) send to each of the election agents,

a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(2) If any return or declaration has not been received by the police area returning officer before the notice is despatched for publication under paragraph (1), the notice must so state, and a like notice about that return or declaration, if afterwards received, must within 10 days after the receipt be published in like manner and sent to each of the election agents other than the agent who is in default or is agent for the candidate in default.

Inspection of returns and declarations

49.—(1) Where the police area returning officer receives any return or declaration under article 34, 40 or 41, the officer must—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at the office of the police area returning officer, or some other convenient place chosen by the officer, for a period of two years beginning with the date when the return is received by the officer;
- (b) if requested to do so by any person, and on payment of the fee determined in accordance with paragraph (3), supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with paragraph 10 of Schedule 5, the police area returning officer must secure that the copy of the statement made available for public inspection under paragraph (1)(a) or (as the case may be) supplied under paragraph (1)(b) does not include, in the case of any donation by an individual, the donor's address.

(3) The fee for a copy of a return, declaration or document referred to in paragraph (1)(b) is to be determined at the rate of 15p for each side of each page.

(4) After the expiry of the two year period referred to in paragraph (1)(a), the police area returning officer—

- (a) may cause those returns and declarations (including the accompanying documents) to be destroyed, or
- (b) if the candidate or the candidate's election agent so requires, must return them to the candidate.

(5) Any returns or declarations delivered under article 34 must be returned not to the candidate (if the candidate or the candidate's election agent so requires) but to the person delivering them, if that person so requires.

Meaning of "election expenses"

50.—(1) In this Part "election expenses" in relation to a candidate at a PCC election means (subject to paragraph (2) and article 51) any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 7 which is used for the purposes of the candidate's election after the date when the candidate becomes a candidate at the election.

(2) No election expenses are to be regarded as incurred by virtue of paragraph (1) or article 51 in respect of any matter specified in Part 2 of Schedule 7.

(3) In this article and in article 51, "for the purposes of the candidate's election" means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.

(4) For the purposes of this Part, election expenses are incurred by or on behalf of a candidate at a PCC election if they are incurred—

- (a) by the candidate or the candidate's election agent, or
- (b) by any person authorised by the candidate or the candidate's election agent to incur expenses.

(5) A reference in this Part to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.

(6) In this Part and in Part 3 of the 1983 Act, as applied by paragraph 1 of Schedule 9, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.

(7) Schedule 7 has effect.

Property, goods, services etc provided free of charge or at a discount

51.—(1) This article applies where, in the case of a candidate at a PCC election—

- (a) either—
 - (i) property or goods is or are transferred to the candidate or the candidate's election agent free of charge or at a discount of more than 10 per cent. of the market value of the property or goods, or
 - (ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and
- (b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this article applies, and subject to Part 2 of Schedule 7—

- (a) an amount of election expenses determined in accordance with this article (“the appropriate amount”) is to be treated, for the purposes of this Part, as incurred by the candidate, and
- (b) the candidate's election agent must make a declaration of that amount,

unless that amount is not more than £50.

(3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—

- (a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or
- (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1)(b).

(4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—

- (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or

- (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by the employer for the use or benefit of a candidate, then for the purposes of this article the commercial rate for the provision of those services is to be taken as being the amount of the remuneration and allowances payable to the employee by the employer in respect of the period for which the employee's services are so made available (but this does not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this article "market value", in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 5 applies with any necessary modifications for the purpose of determining, for the purposes of paragraph (1), whether property or goods is or are transferred to a candidate or the candidate's election agent.

Publicity

Publication of election addresses of candidates

52.—(1) Each candidate at an ordinary PCC election is entitled to have an election address included on a website which is maintained by or on behalf of the Secretary of State for the purpose of publishing election addresses of candidates at such an election.

(2) No election address may be included on the website unless it has been prepared and submitted to, and approved by, the police area returning officer in accordance with Schedule 8.

(3) Any expenses incurred by or on behalf of a candidate in respect of the hosting and publication of the candidate's election address are not to be taken, for the purposes of this Part, as an amount of expenses incurred by the candidate for the purposes of the PCC election.

(4) The Secretary of State must take whatever steps the Secretary of State thinks appropriate to promote public awareness of—

- (a) the existence of the website, and
- (b) the availability of printed and other versions of election addresses of candidates.

(5) The Commission may include on the Commission's website information about—

- (a) how to access the website;
- (b) the availability of printed and other versions of election addresses of candidates,

and must include such information in any printed material which the Commission may publish in connection with PCC elections.

(6) Schedule 8 has effect.

Broadcasting from outside United Kingdom

53.—(1) No person may, with intent to influence persons to give or refrain from giving their votes at a PCC election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the

election in any programmes service (within the meaning of the Broadcasting Act 1990(7)) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

- (a) the British Broadcasting Corporation,
- (b) Sianel Pedwar Cymru, or
- (c) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this article is an illegal practice, but the court before which a person is convicted of an offence under this article may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act read with article 77) (incapacities on conviction of corrupt or illegal practices).

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this article, any person (“P”) who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of the illegal practice, unless P proves—

- (a) that the act or omission took place without P’s consent or connivance, and
- (b) that P exercised all such diligence to prevent the commission of the illegal practice as P ought to have exercised having regard to the nature of P’s functions in that capacity and to all the circumstances.

Broadcasting of local items during election

54.—(1) Each broadcasting authority must adopt a code of practice with respect to the participation of candidates at a PCC election in items about the police area in question which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this article must be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities,

and a broadcasting authority must from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within sub-paragraph (a) or (b).

(3) Before drawing up a code under this article a broadcasting authority must have regard to any views expressed by the Commission for the purposes of this paragraph; and any such code may make different provision for different cases.

(4) The Office of Communications must do all that they can to secure that the code for the time being adopted under this article is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru must each observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1), “the election period”, in relation to a PCC election, means the period beginning with the last date for publication of notice of the election and ending with the close of the poll.

(6) In this article—

“broadcasting authority” means the British Broadcasting Corporation, the Office of Communications or Sianel Pedwar Cymru;

(7) 1990 c.42.

“candidate”, in relation to a PCC election, means a candidate standing nominated at the election;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body;
- (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990⁽⁸⁾ or Part 1 or 2 of the Broadcasting Act 1996⁽⁹⁾.

Imitation poll cards

55. No person may for the purpose of promoting or procuring the election of any candidate at a PCC election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of article 53 apply as if an offence under this article were an offence under that article.

Election meetings

Schools and rooms for PCC election meetings

56.—(1) Subject to the following provisions of this article, a candidate for a police area at a PCC election is entitled for the purpose of holding public meetings in furtherance of the candidature to the use free of charge at reasonable times between the last date for publication of notice of the election and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this article applies;
- (b) any meeting room to which this article applies.

(2) This article applies to community, foundation and voluntary schools of which the premises are situated in the police area.

(3) This article applies to meeting rooms situated in the police area, the expense of maintaining which is payable wholly or mainly out of public funds, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this article, the person by whom or on whose behalf the meeting is convened—

- (a) must defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting, and
- (b) must defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this article except on reasonable notice; and this article does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) For the purposes of this article (except those of paragraph (4)(b)), the premises of a school are not to be taken to include any private dwelling.

(7) In this article—

“dwelling” includes any part of a building where that part is occupied separately as a dwelling;

⁽⁸⁾ 1990 c.42.

⁽⁹⁾ 1996 c.55.

“meeting room” means any room which it is the practice to let for public meetings;
“room” includes a hall, gallery or gymnasium.

Making arrangements for the purposes of article 56

57.—(1) Any arrangements under article 56 for the use of a room in school premises must be made with the local authority maintaining the school, or, in the case of a room in the premises of a foundation or voluntary aided school, with the governing body of the school.

(2) Any person claiming to be, or to be authorised, by a candidate is entitled at all reasonable times to inspect the list of rooms in school premises and of meeting rooms prepared under Schedule 5 to the 1983 Act or a copy of those lists.

Disturbances at election meetings

58.—(1) A person who at a lawful public meeting to which this article applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice.

(2) This article applies to a political meeting held in any police area between the last date on which a notice of the election may be published in accordance with the PCC elections rules and the date of the poll.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1), the constable may if requested so to do by the chairman of the meeting require that person to declare to the constable immediately the person’s name and address and, if that person refuses or fails to do so or gives a false name or false address, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Agency by election officials and canvassing by police officers

Officials not to act for candidates

59.—(1) If any person who is—

- (a) a police area returning officer or local returning officer at a PCC election, or
- (b) a deputy of any such returning officer, or
- (c) an officer of a local authority whose services have been placed at the disposal of such a returning officer, or
- (d) an officer or clerk appointed under the PCC elections rules, or
- (e) a deputy or clerk appointed under regulation 5 of the Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012(10), or
- (f) a partner or clerk of a person mentioned in any of sub-paragraphs (a) to (e) in connection with that person’s official duties,

acts as a candidate’s agent in the conduct or management of the election, the person is guilty of an offence, but nothing in this paragraph prevents a candidate from acting as the candidate’s own election agent.

(2) A person guilty of an offence under this article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Illegal canvassing by police officers

60.—(1) No member of a police force for any police area may by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his or her vote, whether as an elector or as proxy at a PCC election.

(2) A person acting in contravention of paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Nothing in this article applies to subject a person who is member of a police force to any penalty for anything done in the discharge of that person's duty as such.

Other illegal practices, payments or employments

False statements as to candidates

61.—(1) A person who, or any director of any body or association corporate which—

(a) before or during a PCC election, and

(b) for the purpose of affecting the election of any candidate as police and crime commissioner, makes or publishes any false statement of fact in relation to the candidate's personal character or conduct is guilty of an illegal practice, unless the person can show that the person had reasonable grounds for believing, and did believe, the statement to be true.

(2) A candidate is not liable nor is the candidate's election to be avoided for an illegal practice under paragraph (1) which is committed by an agent, other than the election agent, of the candidate unless—

(a) it can be shown that the candidate or the candidate's election agent has authorised or consented to the committing of the illegal practice by that other agent or has paid for the circulation of the false statement constituting the illegal practice, or

(b) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(3) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement is sufficient.

(4) Any person who, before or during a PCC election, knowingly publishes a false statement of a candidate's withdrawal at the election for the purpose of promoting or procuring the election of another candidate is guilty of an illegal practice.

(5) A candidate is not liable, nor is the candidate's election to be avoided, for an illegal practice under paragraph (4) committed by an agent of the candidate other than the candidate's election agent.

Corrupt withdrawal from candidature

62. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a PCC election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment.

Payments for exhibition of election notices

63.—(1) No payment or contract for payment may, for the purpose of promoting or procuring the election of a candidate at a PCC election, be made to an elector or the elector's proxy on account

of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements, and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this article either before, during or after a PCC election—

- (a) the person making the payment or contract, and
- (b) any person who receives the payment or is a party to the contract knowing it to be in contravention of this Order,

is guilty of an illegal practice.

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⁽¹¹⁾ (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.

Prohibition of paid canvassers

65. If a person (“P”) is, either before, during or after a PCC election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a candidate’s election—

- (a) P, and
- (b) the person engaging or employing P,

is guilty of illegal employment.

Providing money for illegal purposes

66.—(1) Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Order, or
- (b) for any expenses incurred in excess of the maximum amount allowed by this Order, or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed to be an exception in pursuance of the provision mentioned in paragraph (2), that person is guilty of an illegal payment.

(2) The provision referred to in paragraph (1) is section 167 of the 1983 Act (application for relief), as applied by paragraph 1 of Schedule 9.

Bribery, treating and undue influence

Bribery

67.—(1) A person (“P”) is guilty of a corrupt practice if P is guilty of bribery.

(2) P is guilty of bribery if P, directly or indirectly, by himself or herself or by any other person on P’s behalf—

- (a) gives any money or procures any office to or for—
 - (i) any voter,
 - (ii) any other person on behalf of any voter, or
 - (iii) any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the election of any person as police and crime commissioner or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above P procures or engages, promises or endeavours to procure the election of any person as police and crime commissioner or the vote of any voter.

(3) For the purposes of paragraph (2)—

⁽¹¹⁾ 1946 9&10 Geo.6 (c.36).

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration, and
- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(4) A person is guilty of bribery if the person advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it be expended in bribery at a PCC election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at a PCC election.

(5) The preceding provisions of this article do not extend and are not to be construed as extending to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a PCC election.

(6) A voter is guilty of bribery if before or during a PCC election the voter, directly or indirectly, by himself or herself or by any other person on the voter's behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for the voter or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person is guilty of bribery if after a PCC election the person directly or indirectly by himself or herself or by any other person on the person's behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this article the expression "voter" includes any person who has or claims to have a right to vote.

Treating

68.—(1) A person ("P") is guilty of a corrupt practice if P is guilty of treating.

(2) P is guilty of treating if P corruptly, by himself or herself or by any other person, either before, during or after a PCC election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting, or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or proxy for an elector who corruptly accepts or takes any such meat, drink, entertainment or provision is also guilty of treating.

Undue influence

69.—(1) A person ("P") is guilty of a corrupt practice if P is guilty of undue influence.

(2) P is guilty of undue influence—

- (a) if P, directly or indirectly, by himself or herself or by any other person on P's behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting, or
- (b) if, by abduction, duress or any fraudulent device or contrivance, P impedes or prevents, or intends to impede or prevent, the free exercise of the franchise of an elector or proxy

for an elector, or so compels, induces or prevails upon, or intends so to compel, induce or prevail upon, an elector or proxy for an elector either to vote or to refrain from voting.

Supplemental

Rights of creditors

70. The provisions of this Part prohibiting—

- (a) payments and contracts for payments,
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by this Order, or
- (c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Order.

Savings as to PCC elections

71.—(1) Where a person has been declared by others to be a candidate at a PCC election without the person's consent, nothing in this Part is to be construed as imposing any liability on that person, unless the person has afterwards assented to the declaration or has been nominated.

(2) Nothing in this Part makes it illegal for an employer to permit electors or proxies for an elector to absent themselves from the employer's employment for a reasonable time for the purpose of voting at the poll at a PCC election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in the employment, and
- (b) is not given with a view to inducing any person to record the person's vote for any particular candidate at the election, and
- (c) is not refused to any person for the purpose of preventing the recording of the person's vote for any particular candidate at the election,

but this paragraph is not to be construed as making illegal any act which would not be illegal apart from this paragraph.

Interpretation of Part 3

72. In this Part—

“declaration as to election expenses” means a declaration made under article 41;

“disputed claim” has the meaning given by article 38(1) as extended by article 39.

“election expenses”, in relation to a PCC election, is to be construed in accordance with articles 50 and 51;

“money” and “pecuniary reward” is deemed (except in articles 30, 67 and 68 and Schedule 5) to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money are to be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of any candidate in a PCC election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of the candidate in living at hotels or elsewhere for the purposes of and in relation to the election;

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under article 40(1);

“sub-agent” has the meaning given in article 27.

Computation of time for purposes of Part 3

73.—(1) For the purposes of this Part, where the day or last day allowed for the doing of anything falls on a day which is—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Good Friday or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

that time is to be extended until the next following day which is not one of those days.

(2) In computing any period of not more than 7 days any day referred to in paragraph (1)(a) to (c) is to be disregarded.