



Political Parties, Elections and Referendums Act 2000

2000 CHAPTER 41

PART VI

CONTROLS RELATING TO THIRD PARTY NATIONAL ELECTION CAMPAIGNS

CHAPTER I

PRELIMINARY

Controlled expenditure by third parties

85 Controlled expenditure by third parties.

- (1) The following provisions have effect for the purposes of this Part.
- (2) “Controlled expenditure”, in relation to a third party, means (subject to section 87) expenses incurred by or on behalf of the third party [^{F1}where—
 - (a) the expenses fall within Part 1 of Schedule 8A, and
 - (b) the expenditure can reasonably be regarded as intended to promote or procure electoral success at any relevant election for—
 - (i) one or more particular registered parties,
 - (ii) one or more registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - (iii) candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates.]

^{F2}(3)

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and any such material is election material even though it can reasonably be regarded as intended to achieve any other purpose as well.

- (4) For the purposes of subsection [F3(2)(b)]—
- (a) the reference to electoral success at any relevant election is a reference—
 - (i) in relation to a registered party, to the return at any such election of candidates standing in the name of the party or included in a list of candidates submitted by the party in connection with the election, and
 - (ii) in relation to candidates, to their return at any such election; and
 - (b) the reference to doing any of the things mentioned in [F4that provision] includes doing so by prejudicing the electoral prospects at the election of other parties or candidates F5...; [F6and]
 - [F7(c) a course of conduct may constitute the doing of one of those things even though it does not involve any express mention being made of the name of any party or candidate.]

[F8(4A) In determining whether expenditure can reasonably be regarded as intended to promote or procure electoral success as mentioned in subsection (2)(b), it is immaterial that it can reasonably be regarded as intended to achieve any other purpose as well.]

- (5) “Recognised third party” means a third party for the time being recognised under section 88 for the purposes of this Part.

F9(5A)

[F10(5B) “The lower-tier expenditure limits”, in relation to controlled expenditure incurred by or on behalf of a recognised third party, means the limits specified in section 94(5) (limits on controlled expenditure incurred in a part of the UK); and a recognised third party is subject to those limits if the notification given by the third party under section 88(1), as it has effect for the time being, contains a statement within section 88(3D).]

- (6) “Relevant election” has the same meaning as in Part II.

- (7) “Responsible person”, in relation to a recognised third party, means—
- (a) if the third party is an individual, that individual;
 - F11(b)
 - (c) otherwise, the person or officer for the time being notified to the Commission by the third party in accordance with section 88(3)(c)(ii) [F12or (d)(ii)].

- (8) “Third party”, in relation to any relevant election, means—
- (a) any person or body other than a registered party; or
 - (b) subject to subsection (9), any registered party.

- (9) In connection with the application of subsection (2) in relation to expenses incurred by or on behalf of a third party which is a registered party, any reference in [F13that subsection] to a registered party or registered parties or to any candidates does not include—

- (a) the party itself, or
- (b) any candidates standing in the name of the party at any relevant election or included in any list submitted by the party in connection with any such election,

as the case may be.

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(10) In this section “candidates” includes future candidates, whether identifiable or not.

Textual Amendments

- F1** Words in s. 85(2) substituted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(2\)](#), 45(3)(b) (with s. 46(1)(2))
- F2** S. 85(3) omitted (30.1.2014) by virtue of [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(3\)](#), 45(3)(b) (with s. 46(1)(2))
- F3** Word in s. 85(4) substituted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(4\)\(a\)](#), 45(3)(b) (with s. 46(1)(2))
- F4** Words in s. 85(4)(b) substituted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(4\)\(b\)\(i\)](#), 45(3)(b) (with s. 46(1)(2))
- F5** Words in s. 85(4)(b) omitted (30.1.2014) by virtue of [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(4\)\(b\)\(ii\)](#), 45(3)(b) (with s. 46(1)(2))
- F6** Word in s. 85(4)(b) inserted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(4\)\(b\)\(iii\)](#), 45(3)(b) (with s. 46(1)(2))
- F7** S. 85(4)(c) substituted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(4\)\(c\)](#), 45(3)(b) (with s. 46(1)(2))
- F8** S. 85(4A) inserted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(5\)](#), 45(3)(b) (with s. 46(1)(2))
- F9** S. 85(5A) repealed (31.12.2020) by [The European Parliamentary Elections Etc. \(Repeal, Revocation, Amendment and Saving Provisions\) \(United Kingdom and Gibraltar\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1310\), reg. 1, Sch. 1 Pt. 1](#) (as amended by S.I. 2019/1389, regs. 1, 2(2))
- F10** S. 85(5B) inserted (24.11.2022) by [Elections Act 2022 \(c. 37\), ss. 28\(1\)](#), 67(1) (with s. 28(13)(14)); S.I. 2022/1226, reg. 2(c)
- F11** S. 85(7)(b) omitted (24.11.2022) by virtue of [Elections Act 2022 \(c. 37\), ss. 24\(3\)](#), 67(1); S.I. 2022/1226, reg. 2(c)
- F12** Words in s. 85(7)(c) inserted (23.5.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 32\(7\)](#), 45(1)(b)(iii); S.I. 2014/1236, art. 2(1)(h)
- F13** Words in s. 85(9) substituted (30.1.2014) by [Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 \(c. 4\), ss. 26\(6\)](#), 45(3)(b) (with s. 46(1)(2))

Commencement Information

- II** S. 85 wholly in force at 16.2.2001; s. 85 not in force at Royal Assent, see s. 163(2); s. 85 in force at 16.2.2001 by [S.I. 2001/222, art. 2, Sch. 1 Pt. I](#) (subject to transitional provisions in [Sch. 1 Pt. II](#))

[^{F14}85A Controlled expenditure of third parties: power of Scottish Ministers

- (1) The powers under the following provisions of Schedule 8A are exercisable by the Scottish Ministers instead of the Secretary of State, so far as they relate to polls at elections for membership of the Scottish Parliament [^{F15}and local government elections in Scotland]—
- paragraph 3(3) (power to approve a draft code of practice prepared by the Electoral Commission),
 - paragraph 3(7) (power to appoint day when code comes into force), and
 - paragraph 4(1) (power to amend Part 1 of Schedule 8A).
- (2) For the purposes of the exercise by the Scottish Ministers of the powers mentioned in subsection (1), paragraphs 3 and 4 of Schedule 8A apply—

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- (a) as if any reference to the Secretary of State were a reference to the Scottish Ministers,
 - (b) as if any reference to “each House of Parliament”, “each House”, “either House”, “both Houses” or “Parliament” were a reference to the Scottish Parliament,
 - (c) as if in paragraph 3(9) for the words from “means—” to the end there were substituted “ means the period of 40 days beginning with the day on which the draft is laid before the Scottish Parliament. ”
- (3) Subsection (1) does not apply to a power so far as it relates to circumstances where a limit applies to expenditure in relation to a period determined by reference both to the date of the poll for an election for membership of the Scottish Parliament and to the date of any other election.]

Textual Amendments

- F14** S. 85A inserted (18.5.2017) by [Scotland Act 2016 \(c. 11\)](#), ss. **7(3)**, 72(4)(a); S.I. 2017/608, reg. 2(1)(e)
- F15** Words in s. 85A(1) inserted (29.9.2021) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), ss. **12**, 35; S.S.I. 2021/311, reg. 2, sch. (with reg. 3)

86 Notional controlled expenditure.

- (1) This section applies where, in the case of a third party—
- (a) either—
 - (i) property is transferred to the third party free of charge or at a discount of more than 10 per cent. of its market value, or
 - (ii) property, services or facilities is or are provided for the use or benefit of the third party 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 services or facilities, and
 - (b) the property, services or facilities is or are made use of by or on behalf of the third party in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the third party in respect of that use, they would be (or are) controlled expenditure incurred by or on behalf of the third party.

[^{F16}(1A) For the purposes of subsection (1)(b), as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly), property, services or facilities are made use of on behalf of a third party only if their use on behalf of the third party is directed, authorised or encouraged by the third party or (where the third party is a recognised third party and is not an individual) by the third party or the responsible person.]

- (2) Where this section applies, an amount of controlled expenditure determined in accordance with this section (“the appropriate amount”) shall be treated, for the purposes of this Part, as incurred by the third party during the period for which the property, services or facilities is or are made use of as mentioned in subsection (1)(b).

This subsection has effect subject to section 87.

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- (3) Where subsection (1)(a)(i) applies, the appropriate amount is such proportion of either—
- (a) the market value of the property (where the property is transferred free of charge), or
 - (b) the difference between the market value of the property and the amount of expenses actually incurred by or on behalf of the third party in respect of the property (where the property is transferred at a discount),
- as is reasonably attributable to the use made of the property as mentioned in subsection (1)(b).
- (4) Where subsection (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 services or facilities (where the property, 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 third party in respect of the use of the property or the provision of the services or facilities (where the property, services or facilities is or are provided at a discount),
- as is reasonably attributable to the use made of the property, services or facilities as mentioned in subsection (1)(b).
- (5) Where the services of an employee are made available by his employer for the use or benefit of a third party, then for the purposes of this section the amount which is to be taken as constituting the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).
- (6) Where an amount of controlled expenditure is treated, by virtue of subsection (2), as incurred by or on behalf of a third party during any period the whole or part of which falls within any period which is a regulated period (as defined by section 94(10)(a)), then—
- (a) the amount mentioned in subsection (7) shall be treated as incurred by or on behalf of the third party during the regulated period, and
 - (b) if a return falls to be prepared under section 96 in respect of controlled expenditure incurred by or on behalf of the third party during that period, the responsible person shall make a declaration of that amount,
- unless that amount is not more than £200.
- (7) The amount referred to in subsection (6) is such proportion of the appropriate amount (determined in accordance with subsection (3) or (4)) as reasonably represents the use made of the property, services or facilities as mentioned in subsection (1)(b) during the regulated period.
- (8) A person commits an offence if he knowingly or recklessly makes a false declaration under subsection (6).
- (9) Paragraph 2(5) and (6)(a) of Schedule 11 shall apply with any necessary modifications for the purpose of determining, for the purposes of subsection (1), whether property is transferred to a third party.

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Textual Amendments

F16 S. 86(1A) inserted (24.11.2022) by Elections Act 2022 (c. 37), ss. 20(3), 67(1); S.I. 2022/1226, reg. 2(c) (with reg. 3(1))

Commencement Information

I2 S. 86 wholly in force at 16.2.2001; s. 86 not in force at Royal Assent, see s. 163(2); s. 86 in force at 16.2.2001 by S.I. 2001/222, art. 2, Sch. 1 Pt. I (subject to transitional provisions in Sch. 1 Pt. II)

87 Expenditure by third parties which is not controlled expenditure.

(1) No amount of controlled expenditure shall be regarded as incurred by a third party by virtue of section 85 or 86 in respect of—

- ^{F17}(a)
- (b) any property, services or facilities to the extent that the property, services or facilities is or are used in circumstances in which—
- (i) an amount of campaign expenditure is to be regarded as incurred by or on behalf of a registered party for the purposes of Part V, ^{F18}...
 - (ii) an amount of expenses falls (in accordance with any enactment) to be included in a return as to election expenses in respect of a candidate or candidates at a particular election, [^{F19}or
 - (iii) an amount of expenses falls to be included in a recall petition return within the meaning of Schedule 5 to the Recall of MPs Act 2015 (see paragraph 1 of that Schedule),]

in respect of that use.

^{F20}(2)

[^{F21}(3) The reference in subsection (1)(b)(i) to circumstances in which an amount of campaign expenditure is to be regarded as incurred by or on behalf of a registered party for the purposes of Part 5 does not include circumstances in which an amount of campaign expenditure is treated as incurred by a registered party under section 94F(2).]

Textual Amendments

F17 S. 87(1)(a) and word omitted (30.1.2014) by virtue of Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4), ss. 26(7)(a), 45(3)(b) (with s. 46(1)(2))

F18 Word in s. 87(1)(b)(i) omitted (4.3.2016) by virtue of Recall of MPs Act 2015 (c. 25), s. 24(3), Sch. 6 para. 6(2)(a); S.I. 2016/290, reg. 2

F19 S. 87(1)(b)(iii) and word inserted (4.3.2016) by Recall of MPs Act 2015 (c. 25), s. 24(3), Sch. 6 para. 6(2)(b); S.I. 2016/290, reg. 2

F20 S. 87(2) omitted (30.1.2014) by virtue of Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4), ss. 26(7)(b), 45(3)(b) (with s. 46(1)(2))

F21 S. 87(3) inserted (30.1.2014) by Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4), ss. 30(5), 45(3)(b) (with s. 46(1)(2))

Commencement Information

I3 S. 87 wholly in force at 16.2.2001; s. 87 not in force at Royal Assent, see s. 163(2); s. 87 in force at 16.2.2001 by S.I. 2001/222, art. 2, Sch. 1 Pt. I (subject to transitional provisions in Sch. 1 Pt. II)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(2A) inserted by [2022 c. 37 s. 18\(1\)](#)
- s. 4A-4E and cross-heading inserted by [2022 c. 37 s. 16](#)
- s. 8(3)(d) inserted by [2011 c. 13 Sch. 10 para. 12](#)
- s. 13ZA and cross-heading inserted by [2022 c. 37 s. 17\(1\)](#)
- s. 54(1)(aa) inserted by [2009 c. 12 s. 9\(1\)](#)
- s. 54(1)(aa) substituted by [2009 c. 12 s. 10\(1\)](#)
- s. 54(2ZA)-(2ZC) inserted by [2009 c. 12 s. 10\(3\)](#)
- s. 56(1A) inserted by [2009 c. 12 s. 10\(5\)](#)
- s. 56(2)(aa) inserted by [2009 c. 12 s. 9\(3\)\(b\)](#)
- s. 56(3B) inserted by [2009 c. 12 s. 9\(4\)](#)
- s. 71H(3ZA) inserted by [2009 c. 12 Sch. 6 para. 19](#)
- s. 71L(9A) inserted by [2009 c. 12 s. 11\(2\)](#)
- Sch. 1 para. 2(1) Sch. 1 para. 2 renumbered as Sch. 1 para. 2(1) by [2022 c. 37 s. 19\(2\)](#)
- Sch. 1 para. 2(2) inserted by [2022 c. 37 s. 19\(4\)](#)
- Sch. 1 para. 2(1) words inserted by [2022 c. 37 s. 19\(3\)\(a\)](#)
- Sch. 1 para. 2(1) words omitted by [2022 c. 37 s. 19\(3\)\(b\)](#)
- Sch. 2 para. 2(1A) inserted by [2022 c. 37 s. 18\(2\)](#)
- Sch. 2 para. 4 and cross-heading inserted by [2022 c. 37 s. 17\(2\)](#)
- Sch. 7 para. 6(1)(aa) inserted by [2009 c. 12 Sch. 3 para. 1\(1\)](#)
- Sch. 7 para. 8(1A) inserted by [2009 c. 12 Sch. 4 para. 2](#)
- Sch. 7 para. 10(5)(aa) inserted by [2009 c. 12 Sch. 3 para. 2\(5\)\(b\)](#)
- Sch. 7 para. 6(1)(aa) substituted by [2009 c. 12 Sch. 4 para. 1\(1\)](#)
- Sch. 7 para. 10(5)(aa) words inserted by [2009 c. 12 Sch. 4 para. 3\(3\)](#)
- Sch. 7A para. 8(9A) inserted by [2009 c. 12 s. 11\(5\)](#)
- Sch. 7A para. 9(10)(ba) inserted by [2009 c. 12 s. 11\(6\)\(b\)](#)
- Sch. 11 para. 4(3) inserted by [2009 c. 12 Sch. 6 para. 29\(2\)](#)
- Sch. 11 para. 6(1)(aa) inserted by [2009 c. 12 Sch. 3 para. 4\(1\)](#)
- Sch. 11 para. 7(2)(aa) inserted by [2009 c. 12 Sch. 4 para. 5](#)
- Sch. 11 para. 6(1)(aa) substituted by [2009 c. 12 Sch. 4 para. 4\(1\)](#)
- Sch. 11 para. 4(3) words inserted by [2009 c. 12 Sch. 6 para. 29\(3\)](#)
- Sch. 15 para. 4(3)(4) inserted by [2009 c. 12 Sch. 6 para. 30\(2\)\(b\)](#)
- Sch. 15 para. 6(1)(aa) inserted by [2009 c. 12 Sch. 3 para. 7\(1\)](#)
- Sch. 15 para. 7(2)(aa) inserted by [2009 c. 12 Sch. 4 para. 8](#)
- Sch. 15 para. 6(1)(aa) substituted by [2009 c. 12 Sch. 4 para. 7\(1\)](#)
- Sch. 15 para. 4(3) words inserted by [2009 c. 12 Sch. 6 para. 30\(3\)](#)