



# 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 in connection with the production or publication of election material which is made available to the public at large or any section of the public (in whatever form and by whatever means).
- (3) “Election material” is material which can reasonably be regarded as intended to—
  - (a) 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, or
  - (b) otherwise enhance the standing—

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- (i) of any such party or parties, or
  - (ii) of any such candidates,
- with the electorate in connection with future relevant elections (whether imminent or otherwise);
- 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 (3)—
- (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 paragraph (a) or (as the case may be) paragraph (b) of that subsection includes doing so by prejudicing the electoral prospects at the election of other parties or candidates or (as the case may be) by prejudicing the standing with the electorate of other parties or candidates;
- and, for the purpose of determining whether any material is election material, it is immaterial that it does not expressly mention the name of any party or candidate.
- (5) “Recognised third party” means a third party for the time being recognised under section 88 for the purposes of this Part.
- (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;
  - (b) if the third party is a registered party—
    - (i) the treasurer of the party, or
    - (ii) in the case of a minor party, the person for the time being notified to the Commission by the party in accordance with section 88(3)(b) (iii); and
  - (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).
- (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 subsection (3) 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.
- (10) In this section “candidates” includes future candidates, whether identifiable or not.

## 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.
- (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.
- (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).

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- (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.

## **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—
- (a) any of the matters mentioned in subsection (2); or
  - (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, or
    - (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,
 in respect of that use.
- (2) The matters mentioned in subsection (1)(a) are—
- (a) the publication of any matter relating to an election, other than an advertisement, in—
    - (i) a newspaper or periodical,
    - (ii) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or
    - (iii) a programme included in any service licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996;
  - (b) any reasonable personal expenses incurred by an individual in travelling or in providing for his accommodation or other personal needs; and
  - (c) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.