



# Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014

## 2014 CHAPTER 4

### PART 2

#### NON-PARTY CAMPAIGNING ETC

##### *Controlled expenditure*

#### 26 Meaning of “controlled expenditure”

- (1) Section 85 of the Political Parties, Elections and Referendums Act 2000 (controlled expenditure by third parties) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2), for the words from “in connection with” to the end substitute “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.”
- (3) Omit subsection (3).
- (4) In subsection (4)—
  - (a) in the opening words, for “(3)” substitute “(2)(b)”;

- (b) in paragraph (b)—
    - (i) for “paragraph (a) or (as the case may be) paragraph (b) of that subsection” substitute “that provision”;
    - (ii) omit “or (as the case may be) by prejudicing the standing with the electorate of other parties or candidates”;
    - (iii) at the end insert “and”;
  - (c) for the words after that paragraph substitute—
    - “(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.”
- (5) After subsection (4) insert—
- “(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.”
- (6) In subsection (9), for “subsection (3)” substitute “that subsection”.
- (7) In section 87 of that Act (expenditure by third parties which is not controlled expenditure)—
- (a) in subsection (1), omit paragraph (a) and the “or” at the end of it;
  - (b) omit subsection (2).
- (8) Section 94 of that Act (limits on controlled expenditure by third parties) is amended in accordance with subsections (9) and (10).
- (9) After subsection (4) insert—
- “(4A) It is a defence for any person or third party charged with an offence under subsection (2) or (4) to show—
- (a) that any code of practice for the time being issued under paragraph 3 of Schedule 8A was complied with in determining whether any expenditure is controlled expenditure for the purposes of this Part, and
  - (b) that the offence would not have been committed on the basis of the controlled expenditure as determined in accordance with the code.”
- (10) In subsection (6)(b)—
- (a) for “in connection with the production or publication of election material which” substitute “and the expenditure”;
  - (b) for “85(3)” substitute “85(2)(b)”.
- (11) In section 143 of that Act (details to appear on election material)—
- (a) in subsections (2A) and (2B)—
    - (i) for “, procuring or enhancing” substitute “or procuring”;
    - (ii) omit “or standing”;
  - (b) in subsection (11), for the definition of “election material” substitute—
    - ““election material” has the meaning given by section 143A;”.
- (12) After section 143 of that Act insert—

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*Status: This is the original version (as it was originally enacted).*

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### **“143A Meaning of “election material”**

- (1) “Election material” means material which can reasonably be regarded as intended to promote or procure electoral success at any relevant election for—
    - (a) one or more particular registered parties,
    - (b) 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
    - (c) 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.
  - (2) For the purposes of subsection (1)—
    - (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,
    - (b) the reference to doing any of the things mentioned in that subsection includes doing so by prejudicing the electoral prospects at the election of other parties or candidates, and
    - (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.
  - (3) In determining whether material can reasonably be regarded as intended to promote or procure electoral success as mentioned in subsection (1), it is immaterial that it can reasonably be regarded as intended to achieve any other purpose as well.
  - (4) In this section—

“candidate” includes a future candidate, whether identifiable or not;

“relevant election” has the same meaning as in Part 2 (see section 22(5)).”
- (13) In section 156 of that Act (orders and regulations), after subsection (4)(j) insert—  
“(ja) paragraph 4 of Schedule 8A,”.
- (14) Schedule 3 inserts a new Schedule 8A into that Act.