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STATUTORY INSTRUMENTS

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**1999 No. 787**

**The Scottish Parliament (Elections etc.) Order 1999**

**PART III**

**THE ELECTION CAMPAIGN**

**Appointment of election agent**

**30.**—(1) Not later than the latest time for delivery of notices of withdrawal of candidature for a Scottish parliamentary election, a person shall be named by, or on behalf of—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) each registered party submitting a regional list,

as the election agent for that candidate or, as the case may be registered party in relation to that list and that person's name and address shall be declared in writing by or on behalf of such a candidate or, in the case of a registered party, by the candidate who is highest in that party's regional list, to the appropriate returning officer.

(2) A candidate for return as a constituency member and any individual candidate for return as a regional member may name himself as election agent.

(3) A candidate included on a registered party's regional list may be named as election agent for that party in relation to that regional list.

(4) Where a candidate has been named or has named himself as an election agent he shall, so far as circumstances admit, be 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 shall be construed to refer to the candidate acting in his capacity as election agent.

(5) One election agent only shall be appointed for—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) each registered party in relation to each regional list submitted by that party,

but the appointment, whether the election agent appointed be a candidate himself or not, may be revoked.

(6) If, whether before, during or after the election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the appropriate returning officer.

(7) The declaration as an election agent of—

- (a) a candidate of a person other than that candidate; or
- (b) a registered party submitting a regional list, of a person other than a candidate on that list,

shall be 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 him.

(8) Upon the name and address of an election agent being declared to the appropriate returning officer the appropriate returning officer shall forthwith give public notice of that name and address.

### **Nomination of sub-agent**

**31.**—(1) An election agent of a candidate for return as a constituency member may appoint to act in any part of the constituency one, but not more than one, deputy election agent.

(2) An election agent of an individual candidate for return as a regional member or registered party which has submitted a regional list may appoint to act in any part of the region one, but not more than one, deputy election agent.

(3) In this Order, any deputy election agent appointed under paragraph (1) or (2) above is referred to as a sub-agent.

(4) As regards matters in a part of the constituency or, as the case may be, region, 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 his part of the constituency or, as the case may be, region shall be deemed to be done by or to the election agent;
- (b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Order shall be an illegal practice and offence against this Order committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and
- (c) the candidate or, as the case may be, each candidate on the registered party's regional list shall suffer the like incapacity as if that act or default had been the election agent's act or default.

(5) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate returning officer, and the appropriate returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(6) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed him ceasing to be election agent; but
- (b) may be revoked by whoever is for the time being the 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 his name and address shall be forthwith declared in writing to the appropriate returning officer, who shall forthwith give public notice of the name and address so declared.

(7) The declaration to be made to the appropriate returning officer, and such notice to be given by him, under paragraph (5) or (6) above shall specify the part of the constituency or, as the case may be, region within which any sub-agent is appointed to act.

### **Office of election agent**

**32.**—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and documents may be sent, and the address of the office shall be—

- (a) declared to the appropriate returning officer at the same time as the appointment of the agent or, as the case may be, sub-agent, is declared to him; and
- (b) stated in the public notice of the name of the agent or, as the case may be, sub-agent.

(2) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every election

agent or sub-agent may, in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

### **Effect of default in election agent's appointment**

**33.**—(1) If no person's name and address is given as required by article 30 as the election agent of—

- (a) a candidate who remains validly nominated; or
- (b) a registered party submitting a regional list,

at the latest time for delivery of notices of withdrawal of candidature—

- (i) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent; and
- (ii) in the case of a registered party, the candidate who is highest in that party's regional list shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as that party's election agent.

(2) This paragraph applies if—

- (a) the person whose name and address have been so given as those of an election agent for a candidate (not being the candidate himself) or of a registered party dies; and
- (b) a new appointment is not made on the day of the death or on the following day.

(3) Where paragraph (2) above applies—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, he shall be deemed to have appointed himself as from the time of death; and
- (b) in the case of the death of an election agent for a registered party—
  - (i) the candidate who is highest in that party's regional list shall be deemed to have appointed himself from the time of the death; or
  - (ii) where paragraph (2) above applies through the death of such a candidate, the candidate whose name is next highest in that registered party's regional list shall be deemed to have been appointed from the time of the death.

(4) If the appointment of an election agent is revoked without a new appointment being made—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent; and
- (b) in the case of a registered party, the candidate who is highest in that party's regional list shall be deemed to have been appointed (or re-appointed) election agent.

(5) The deemed appointment of an election agent may be revoked as if it were an actual appointment.

(6) Where a candidate for return as a constituency member is by virtue of this article to be treated as an election agent he shall be deemed to have his office at his address as given in the statement of persons nominated as candidates for return as a constituency member.

(7) Where an individual candidate for return as a regional member or a candidate on a registered party's regional list is by virtue of this article to be treated as an election agent he shall be deemed to have his office at the address given in the statement of persons and parties standing nominated.

(8) The appropriate returning officer on being satisfied that a person is by virtue of this article to be treated as an election agent, shall forthwith proceed to give such like notice as if the name and address of the person and the address of his office had been duly given to him under article 30 above.

### **Making of contracts**

**34.**—(1) The election agent of a candidate or of a registered party shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate or party at that election, and hire every committee room hired on behalf of such candidate or party.

(2) A contract by which any election expenses are incurred shall not be enforceable against a candidate or against a registered party submitting a regional list at the election unless made by—

- (a) in the case of a candidate, the candidate himself or by his election agent; or
- (b) in the case of a registered party, the registered party, the nominating officer of that party, its election agent, or any candidate included in the regional list of that party,

but this paragraph does not relieve any candidate for return as a constituency member from the consequences of any corrupt or illegal practice having been committed by his agent.

(3) The references in this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

### **Expenses of registered political parties**

**35.** For the purposes of this Part of this Order—

- (a) sums paid and expenses incurred by a candidate for return as a constituency member in respect of whom the constituency returning officer has received a certificate issued by a nominating officer of a registered party under rule 7 of the Scottish Parliamentary Election Rules are not to be regarded as having been made or incurred by that party; but
- (b) a sum is to be treated as paid, and an expense is to be treated as incurred, by a registered party if the payment is made or the expenses incurred—
  - (i) by an election agent of the party;
  - (ii) by the party's nominating officer;
  - (iii) by any candidate included on a regional list submitted by that party; or
  - (iv) by any other person in accordance with arrangements for which the nominating officer is responsible.

### **Payment of expenses through election agent: constituency and individual candidates**

**36.**—(1) Except as permitted by article 38 below, or in pursuance of article 43 or 44 below, no payment and no advance or deposit shall be made—

- (a) by a candidate for return as a constituency member or an individual candidate for return as a regional member;
- (b) by any agent on behalf of such a candidate; or
- (c) by any other person,

at any time in respect of election expenses otherwise than by or through the candidate's election agent.

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

(3) The references in the foregoing provisions of this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

(4) All money provided by any person other than a candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.

(5) The foregoing provisions of this article shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

(6) A person who makes any payment, advance or deposit in contravention of paragraph (1) above, or pays in contravention of paragraph (4) above any money so provided as mentioned, shall be guilty of an illegal practice.

**Payment of expenses: registered political parties etc.**

37.—(1) Except as permitted by article 38 below, or in pursuance of articles 43 or 44 below, no payment and no advance or deposit shall be made at any time in respect of election expenses of a registered party at a Scottish parliamentary general election unless made in accordance with paragraph (2) below.

(2) No such payment, advance or deposit shall be made—

- (a) by the party or by any agent on behalf of the party;
- (b) by any candidate included in a regional list submitted by that party or by any agent on behalf of such a candidate; or
- (c) by any other person,

otherwise than—

- (i) by or through an election agent of that party; or
- (ii) by the nominating officer of that party or by any other person in accordance with arrangements for which that nominating officer is responsible.

(3) Every payment made under paragraph (2) above in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars and by a receipt.

(4) The references in the foregoing provisions of this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

(5) All money provided for any election expenses of a registered political party (whether as gift, loan, advance or deposit) provided by any person other than—

- (a) any candidate appearing on a regional list submitted by that party; or
- (b) the nominating officer of that party or such other person as is mentioned in paragraph (2) (ii) above,

shall be paid in accordance with paragraph (6) below.

(6) Such money shall be paid to—

- (a) any election agent of the registered party, or any candidate appearing on a regional list submitted by that party; or
- (b) the nominating officer of that party or such other person as is mentioned in paragraph 2(ii) above,

and not otherwise.

(7) The foregoing provisions of this article shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

(8) A person who makes any payment, advance or deposit in contravention of paragraphs (1) and (2) above, or pays money in contravention of paragraphs (5) and (6) above shall be guilty of an illegal practice.

### **Candidate's personal expenses, and petty expenses**

**38.**—(1) A candidate (including a candidate on a registered party's regional list) may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which a candidate may pay shall not exceed—

- (a) £600 in the case of a candidate for return as a constituency member who is not also a candidate for return as a regional member; and
- (b) £900 in the case of a candidate for return as a regional member (whether or not he is also a candidate for return as a constituency member),

and any further personal expenses incurred by him shall be paid by the election agent.

(2) A candidate shall send to the election agent within the time permitted by this Order for sending in claims, a written statement of the amount of personal expenses paid as mentioned in paragraph (1) above by the candidate; and, when that candidate is standing for return as a constituency member and for return as a regional member he shall send the statement to the election agent acting on his behalf in relation to his candidacy for return as a constituency member.

(3) Any person may, if so authorised in writing by an election agent pay any necessary expenses of stationery, postage, facsimile communication (or any other 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 shall be paid by the election agent.

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

### **Prohibition of expenses not authorised by election agent: candidates for return as constituency members and individual candidates for return as regional members**

**39.**—(1) Unless article 40 applies, no expenses, with a view to promoting or procuring the election of a candidate for return as a constituency member or an individual candidate for return as a regional member at a Scottish parliamentary election shall be incurred at such an election by any person other than the candidate or his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display;
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors a candidate, or the views of such a candidate or the extent or nature of that candidate's backing or disparaging of another candidate or, in the case of an individual candidate for return as a regional member, of a registered party,

but sub-paragraph (c) of this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or any other periodical or in a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990(1) or Part I or II of the Broadcasting Act 1996(2); or
- (ii) apply to any expenses, not exceeding in the aggregate the sum of £500, which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

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(1) 1990 c. 42.

(2) 1996 c. 55.

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

- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the appropriate returning officer a return of the amount of those expenses stating the election at which and the candidate in whose support they were incurred; and
- (b) the return shall 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 a candidate or his election agent.

(3) The return and declaration under the foregoing provisions of this article shall be in the form A and B set out in the Appendix and the authority received from the election agent shall be annexed to and deemed to be part of the return.

(4) A copy of every return and declaration made under paragraph (2) above in relation to an election shall be sent to the Secretary of State within 21 days after the day on which the result of the election is declared by the person making the return or declaration.

(5) 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 (2) above falsely,

he shall be guilty of a corrupt practice, and if a person fails to deliver or send any declaration or return or a copy of it as required by this article he shall be guilty of an illegal practice, but—

- (i) the court before whom a person is convicted under this article may, if they think it is just in certain circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order); and
- (ii) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this article committed by an agent without his consent or connivance.

(6) 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, was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—

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

#### **Prohibition of expenses not authorised by election agent etc.: registered parties**

**40.**—(1) No expenses shall, with a view to promoting or procuring the election of any candidate or candidates be incurred by any person other than in accordance with paragraph (2) below or article 39.

(2) Expenses required by paragraph (1) above to be incurred in accordance with this paragraph shall be incurred by—

- (a) any candidate on a registered party's regional list;
- (b) the nominating officer of a registered party;

- (c) the election agent of a registered party and any person authorised in writing by that election agent; or
- (d) by any other person in accordance with arrangements for which the nominating officer is responsible,

on account–

- (i) of holding public meetings or organising any public display;
- (ii) of issuing advertisements, circulars or publications; or
- (iii) of otherwise presenting to the electors any candidate appearing on that list or the views of any such candidate or the extent to which any such candidate backs or disparages an individual candidate for return as a regional member or any other registered party which has submitted a regional list or any candidate included on the regional list of such other registered party,

but sub-paragraph (iii) of this paragraph shall not–

- (ia) restrict the publication of any matter relating to the election in a newspaper or any other periodical or in a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru or in 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; or
- (ib) apply to any expenses not exceeding in the aggregate the sum of £1000 which may be incurred by an individual and are not incurred in pursuance of a plan suggested or concerted with others or to expenses incurred by any person in travelling or living away from home or similar personal expenses.

(3) Where a person incurs any expense required by this article to be authorised by the election agent for a registered party–

- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the Secretary of State a return of the amount of those expenses; and
- (b) the return shall 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 registered party or its election agent or any candidate included in the party's regional list.

(4) The return and declaration under the foregoing provisions of this article shall be in the form C and D set out in the Appendix and the authority received from the election agent shall be annexed to and deemed to be part of the return.

(5) A copy of the return and declaration made under paragraph (2) above in relation to an election shall be sent to the Secretary of State within 21 days after the day on which the result of the election is declared by the person making the return or declaration.

(6) 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 (3) above falsely,

he shall be guilty of a corrupt practice, and if a person fails to deliver or send any declaration or return or a copy of it as required by this article he shall be guilty of an illegal practice, but–

- (i) the court before whom a person is convicted under this article may, if they think it is just in special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order); and



(ii) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this article committed by an agent without his consent or connivance.

(7) 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, shall be deemed to be guilty of that offence, unless he proves—

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

### **Limitation of election expenses: candidates**

**41.—**(1) No sum shall be paid and no expense shall be incurred by—

- (a) a candidate for return as a constituency member or his election agent; or
- (b) an individual candidate for return as a regional member or his election agent,

whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of the maximum amount specified in this article, and a candidate, or election agent knowingly acting in contravention of this paragraph shall be guilty of an illegal practice.

(2) The maximum amount is (in a case other than that to which paragraph (3) below applies)—

- (a) for a candidate for return as a constituency member in a constituency which is coterminous with a parliamentary constituency which is a county constituency £5,229 together with an additional 5.9p for every entry in a register of electors to be used at the election (as first published);
- (b) for a candidate for return as a constituency member for a constituency which is coterminous with a parliamentary constituency which is a burgh constituency, £5,229 together with an additional 4.4p for every entry in a register of electors to be used at the election (as first published);
- (c) for a candidate for return as a constituency member for the constituencies of the Orkney Islands or the Shetland Islands, £5,229 together with an additional 5.9p for every entry in a register of electors to be used at the election (as first published); and
- (d) for an individual candidate for return as a regional member, a sum calculated by adding together the maximum amounts (calculated in accordance with sub-paragraphs (a) to (c) above) for a single candidate for return as a constituency member in each constituency included in the region.

(3) The maximum amount at an election to fill a vacancy, for a candidate—

- (a) for return as a constituency member in a constituency which is coterminous with a parliamentary constituency which is a county constituency, £20,920 together with an additional 23.4p for every entry in a register of electors to be used at the election (as first published);
- (b) for return as a constituency member for a constituency which is coterminous with a parliamentary constituency which is a burgh constituency, £20,920 together with an additional 17.8p for every entry in a register of electors to be used at the election (as first published);
- (c) for return as a constituency member for the constituencies of the Orkney Islands or the Shetland Islands, £20,920 together with an additional 23.4p for every entry in a register of electors to be used at the election (as first published).

(4) If a register to be used at an election is not published before the day of publication of the notice of election then for any reference in paragraph (2) or (3) above to an entry in that register there shall be substituted a reference to an entry in the electors list for that register as first published which gives the name of a person appearing from those lists to be entitled to be registered.

(5) The maximum amount specified in paragraph (2) or (3) above for a candidate is not required to cover personal expenses of that candidate.

(6) Where a poll for the return of a constituency member is countermanded or abandoned by reason of a candidate's death, the maximum amount of election expenses shall, for any of the other candidates who then remain validly nominated, 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.

(7) The maximum amount specified in paragraph (2) or (3) above for a candidate shall not be affected by the change in the timing of a Scottish parliamentary election or of any step in the proceedings at such an election.

### **Limitation of election expenses: registered political parties**

**42.**—(1) No sum shall be paid and no expenses shall be incurred by a registered political party at a general election for return of members to the Scottish Parliament, whether before, during or after such an election, on account of or in respect of the conduct or management of the election, in excess of £1,500,000.

(2) Any person knowingly acting in contravention of paragraph (1) above shall be guilty of an illegal practice.

(3) The amount specified in this article is not required to cover the personal expenses of any candidates on a regional list of a registered party.

(4) The amount specified in this article shall not be affected by a change in the timing of a Scottish parliamentary election or of any step in the proceedings at such an election.

(5) Where expenditure is incurred by a registered party in excess of the maximum amount specified in this article, the nominating officer of the party shall be deemed to be guilty of an offence, unless he proves—

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

(6) A person who is guilty of an offence under paragraph (5) above shall be liable—

- (a) on conviction or indictment, to a fine; or
- (b) on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale.

### **Time for sending in and paying claims**

**43.**—(1) Every claim against—

- (a) a candidate for return as a constituency member or his election agent; or
- (b) an individual candidate for return as a regional member or his 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 shall be barred and not paid.

(2) Every claim against—

- (a) any registered party submitting a regional list or any candidate appearing on any list of that party or an election agent of that party; or
- (b) the nominating officer of a registered party submitting a regional list or any other person where that claim arises in accordance with arrangements for which the nominating officer is responsible,

in respect of election expenses which is not sent in—

- (i) to the election agent, where sub-paragraph (a) applies; or
- (ii) to the nominating officer or to such other person as is mentioned in sub-paragraph (b) where sub-paragraph (b) applies,

within 21 days after the day on which the result of the election is declared shall be barred and not paid.

(3) All election expenses shall be paid within 28 days after that date.

(4) Subject to paragraph (5) or (6) below, a person who pays a claim in contravention of paragraph (1) or (2) above or makes a payment in contravention of paragraph (3) above shall be guilty of an illegal practice.

(5) Where the election court reports that it has been proved to the court that any payment made was by an election agent without the sanction or connivance of a candidate—

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

(6) The following person or persons, namely—

- (a) a claimant;
- (b) a candidate for return as a constituency member or his election agent;
- (c) an individual candidate for return as a regional member or his election agent; or
- (d) the nominating officer of a registered political party submitting a regional list, the election agent of such a party, a candidate included a regional list submitted by that party and such other person as is mentioned in paragraph (2)(b) above,

may apply to the Court of Session or to a sheriff court for leave to pay a claim for any election expenses although sent in after the period of 21 days or although sent in—

- (i) to a candidate and not the election agent;
- (ii) to the election agent and not to the registered nominating officer or to such other person as is mentioned in paragraph (2)(b) above; or
- (iii) to the nominating officer or to such other person as is mentioned in paragraph 2(b) above and not to the election agent,

and the court on cause shown to their satisfaction may by order grant leave.

(7) Any sum specified in the order of leave may be paid—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by such candidate or his election agent;
- (b) by the nominating officer of a registered party submitting a regional list or that party's election agent or by any candidate appearing on that list or by any other person in accordance with arrangements for which the nominating officer is responsible; and

the amount paid in pursuance of the judgement or order shall not be deemed to be in contravention of paragraph (3) above.

(8) The jurisdiction vested by paragraph (6) above in a sheriff court may be exercised otherwise than in open court.

(9) An appeal lies to the Court of Session from any order of a sheriff court made by virtue of paragraph (6) above.

### **Disputed claims**

**44.**—(1) If—

- (a) an election agent;
- (b) a nominating officer of a registered party; or
- (c) any other person in accordance with arrangements for which the nominating officer is responsible,

disputes any claim sent to him within the period of 21 days mentioned in article 43 above or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court and any sum paid by a candidate or such other person as is mentioned in paragraph (1)(a), (b) or (c) above, in pursuance of the judgement or order of the court shall not be deemed to be in contravention of article 36(1), 37(1) or (2) or 43(3) above.

(3) If the defender in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the pursuer's application otherwise directs, be forthwith referred for taxation to the auditor of the Court of Session or, as the case may be, sheriff court and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Article 43(7) to (10) above applies in relation to a disputed claim as it applies in relation to a claim for election expenses sent in after the period of 21 days.

### **Election agent's claim**

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

### **Return as to election expenses: candidates for return as constituency members and individual candidates for return as regional members**

**46.**—(1) Within 35 days after the day on which the result of a Scottish parliamentary election is declared the election agent of every—

- (a) candidate for return as a constituency member; and
- (b) individual candidate for return as a regional member,

at the election shall deliver to the appropriate returning officer a true return in the form E set out in the Appendix or to the like effect, containing as respects that candidate a statement of all payments made by the election agent together with all the bills and receipts.

(2) The return shall deal under a separate heading or subheading with any expenses included in it—

- (a) as respects which a return is required to be made under article 39(2) above; or
- (b) which are on account of the remuneration of expenses of speakers at public meetings.

(3) The return shall also contain as respects that candidate—

- (a) a statement of the amount of personal expenses, if any, paid by the candidate;
- (b) a statement of all disputed claims of which the election agent is aware;

- (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the Court of Session or sheriff court;
- (d) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they may have been received.

(4) Where the candidate is his own election agent, a statement of all money and securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of money securities and equivalent of money received by the election agent from the candidate.

(5) Where after the date at which the return as to election expenses is delivered leave is given by the court under article 43(7) above for any claims to be paid, the candidate or his election agent shall, within seven days after its payment, deliver to the appropriate 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 in default he shall be deemed to have failed to comply with requirements of this article without such authorised excuse as is mentioned in article 53 below.

#### **Return as to election expenses: registered party**

**47.—**(1) Within seventy days after the day on which the result of the election is declared the nominating officer for each registered party on whose behalf candidates stood at that election shall deliver to the Secretary of State a true return of election expenses of the party in the form F set out in the Appendix or to the like effect, containing a statement as respects that party of all payments made by the party's nominating officer, by each of its election agents or by any other person in accordance with arrangements for which that nominating officer is responsible together with all the bills and receipts.

(2) The total amount of all such payments referred to in paragraph (1) above shall be included in the statement.

(3) The return shall deal under a separate heading or sub-heading with any expenses included in it—

- (a) as respects which a return is required to be made under article 40(2) above; or
- (b) which are on account of the remuneration of expenses of speakers at public meetings.

(4) The return shall also contain as respects that registered party—

- (a) a statement as respects each candidate on a regional list of that party of the amount of personal expenses, if any, paid by the candidate;
- (b) a statement of all disputed claims of which the nominating officer is aware;
- (c) a statement of all the unpaid claims, if any, of which the nominating officer is aware in respect of which application has been or is about to be made to the Court of Session or sheriff court;
- (d) a statement of all money, securities and equivalent of money received—
  - (i) by an election agent;
  - (ii) by the nominating officer; or
  - (iii) by any other person in accordance with arrangements for which the nominating officer is responsible,

from a candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they may have been received.

(5) Where a candidate included in a registered party's regional list is the election agent for the registered party in relation to that list, a statement of all money and securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of monies, securities and equivalent of money received by the election agent for that list from that candidate.

(6) Where after the date at which the return as to election expenses is delivered leave is given by the court under article 43(7) for any claims to be paid, the nominating officer shall, within 7 days after its payment, deliver to the Secretary of State 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 in default he or they shall be deemed to have failed to comply with requirements of this article without such authorised excuse as is mentioned in article 53 below.

(7) In connection with the discharge of functions under this article by a nominating officer it shall be the duty of any person who is or has been an election agent or sub-agent for a registered party to co-operate with that party's nominating officer and, in particular, to supply to the nominating officer such particulars as he may reasonably require.

**Declarations as to election expenses: candidates for return as constituency members and individual candidates for return as regional members**

**48.—**(1) Each return delivered under article 46 above shall be accompanied by a declaration made by the election agent in the form G set out in the Appendix.

(2) At the same time as the election agent delivers that return, or within seven days thereafter—

- (a) each candidate for return as a constituency member; and
- (b) each individual candidate for return as a regional member,

shall deliver to the appropriate returning officer a declaration made by him in the form G set out in the Appendix.

(3) Where a candidate is out of the United Kingdom when the return is so delivered—

- (a) the declaration required by paragraph (2) above may be made by him within 14 days after his return to the United Kingdom; and
- (b) in that case, the declaration shall be forthwith delivered to the appropriate returning officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of this Order relating to the return and declaration as to election expenses.

(4) A declaration as to election expenses under this article may be made either before a justice of the peace or before any person who is the proper officer of a local authority.

(5) Where—

- (a) a candidate for return as a constituency member is his own election agent; or
- (b) an individual candidate for return as a regional member is his own election agent,

the declaration by the election agent as to the election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form G set out in the Appendix.

(6) If a candidate or election agent knowingly makes the declaration required by this article falsely, he shall be guilty of a corrupt practice.

**Declarations as to election expenses: registered political parties**

**49.—**(1) Each return delivered under article 47 above shall be accompanied by a declaration made by the nominating officer in the form H set out in the Appendix.

(2) At the same time as the nominating officer for a registered party delivers that return, or within 7 days thereafter, each candidate in a regional list submitted by that registered party shall deliver to the Secretary of State a declaration made by that candidate in the form I set out in the Appendix.

(3) Where any such candidate is out of the United Kingdom when the return is so delivered—

(a) the declaration required by paragraph (2) above may be made by him within 14 days after his return to the United Kingdom; and

(b) in that case, the declaration shall forthwith be delivered to the Secretary of State,

but the delay authorised by this article in making the declaration shall not exonerate the nominating officer from complying with the provisions of this Order relating to the return and declaration as to election expenses.

(4) A declaration as to election expenses under this article may be made either before a justice of the peace or before any person who is the proper officer of a local authority.

(5) If a person knowingly makes the declaration required by this article falsely, he shall be guilty of a corrupt practice.

#### **Where no return and declaration is needed**

**50.** Notwithstanding anything in articles 48 and 49 above, no return or declaration as to election expenses shall be required in the case of a person—

(a) who is a candidate, but is so only because he 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 of declarations**

**51.** Subject to the provisions of article 53 below, if any candidate, nominating officer or election agent fails to comply with the requirements of articles 46 to 49 above he shall be guilty of an illegal practice.

#### **Penalty for sitting or voting where no return and declaration is transmitted**

**52.—(1)** If—

(a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the return and declarations as to election expenses; or

(b) in the case of a candidate included on a registered party's regional list, his declaration as to elections expenses,

are not delivered before the expiry of the time limited for the purpose the candidate shall not, after the expiry of the time, sit or vote in the Parliament as a member for the constituency or, as the case may be, region until—

(i) where sub-paragraph (a) above applies, that return and those declarations have been delivered;

(ii) where sub-paragraph (b) applies, that declaration has been delivered; or

(iii) the date of the allowance of an authorised excuse for the failure to deliver the return and declaration,

and if he sits or votes in contravention of this paragraph he shall forfeit £100 for every day on which he so sits or votes.

### **Authorised excuses for failure as to return and declarations**

**53.**—(1) A candidate, a party’s nominating officer or an election agent may apply for relief under this article to—

- (a) the Court of Session;
- (b) an election court; or
- (c) a sheriff court.

(2) Where an application is made under this article the person or persons making the application shall notify the Lord Advocate of the application and the Lord Advocate may attend or be represented at 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 for return as a constituency member, an individual candidate for return as a regional member, in respect of any failure to deliver the return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them;
- (b) to a candidate on a registered party’s regional list, in respect of any failure to deliver the declaration as to election expenses, or any part of it, or in respect of any error or false statement in it;
- (c) to a registered party’s nominating officer, in respect of any failure to deliver a return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them; or
- (d) to an election agent, in respect of any failure to deliver the return and declaration as to election expenses, 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;
- (b) where the applicant is a candidate, by reason of the absence, death, illness or misconduct—
  - (i) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, of his election agent or sub-agent (or any clerk or officer of such agent); or
  - (ii) in the case of a candidate included in a registered party’s regional list, of any person;
- (c) where the applicant is an election agent, by reason of the death or illness—
  - (i) of any prior election agent;
  - (ii) where he is an election agent for a candidate, of the candidate; or
  - (iii) where he is an election agent for a registered party submitting a regional list, of any candidate included in that list;
- (d) where the applicant is an election agent, by reason of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent;
- (e) where the applicant is a registered party’s nominating officer, by reason of the death, absence or misconduct illness—
  - (i) of any election agent of that party or clerk or officer of such agent;
  - (ii) of any candidate included in a regional list submitted by that party; or
  - (iii) of any person having the authority to act in accordance with arrangements for which the nominating officer is responsible; or
- (f) 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 constituency or region in relation to which the election was held, 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 application, 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 a candidate—

- (a) that any act or omission of the election agent of that candidate (or, in the case of a candidate on a party's regional list, the party's nominating officer) in relation to the return or 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 shall relieve the candidate from the consequences of the act or omission of the election agent or, as the case may be, nominating officer.

(7) An order under paragraph (5) above 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 the court seem best calculated for carrying into effect the objects of this Part of this Order.

(8) An order under paragraph (5) above shall relieve the applicant for the order from any liability or consequences under this Order in respect of the matter excused by the 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.

(10) The jurisdiction vested by this article in a sheriff court may be exercised other than in open court.

(11) An appeal lies to the Court of Session from any order of a sheriff court made by virtue of this article.

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

**54.**—(1) Where on an application under article 53 above it appears to the court that any person who is or has been an election agent or sub-agent or nominating officer has refused or failed to make such return, or to supply such particulars, as will enable a person to comply with the provisions of this Order as to the return or declaration as to election expenses the court before making an order under that article, shall order that person to attend before the court.

(2) The court shall on the attendance of that person unless he shows cause to the contrary, order him—

- (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 it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this article, the court may order him to pay a fine not exceeding the amount specified as level 5 on the standard scale.

### **Publication of time and place of inspection of returns and declarations**

**55.**—(1) At a Scottish parliamentary election, the appropriate returning officer, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, shall—

- (a) publish in not less than—
  - (i) in the case of a constituency returning officer, two newspapers circulating in the constituency; and
  - (ii) in the case of a regional returning officer, three newspapers circulating in the region; and
- (b) send—
  - (i) in the case of a constituency returning officer, to each of the election agents; and
  - (ii) in the case of a regional returning officer, to the election agents and the nominating officers for each registered party submitting a regional list in relation to that region, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(2) The Secretary of State shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses—

- (a) publish in not less than five newspapers circulating in Scotland; and
- (b) send to each of the election agents for individual candidates for return as regional members and to the nominating officers of each registered party submitting a regional list,

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

(3) But if any return or declaration has not been received by the appropriate returning officer or the Secretary of State before the notice is dispatched for publication, the notice shall so state and the like notice about that return and declaration, if afterwards received, shall within 10 days after the receipt be published in like manner and sent to each of the election agents and each nominating officer for a registered party submitting a regional list other than—

- (a) an agent who is in fault or is agent for the candidate in fault; or
- (b) a nominating officer who is in fault of who is the nominating officer for a registered party submitting a regional list on which there is included a candidate who is in fault.

### **Inspection of returns and declarations: candidates**

**56.**—(1) Any return or declaration (including the accompanying documents) delivered to the appropriate officer under articles 39, 46 or 48 above—

- (a) shall be kept by the appropriate returning officer at some convenient place appointed by him; and
- (b) shall at all reasonable times during the 2 years next after they are received by him be open to inspection by any person on payment of the fees set out in paragraph (2) below,

and the appropriate returning officer shall on demand and on payment of the fees set out in paragraph (3) below provide copies of them or any part of them.

(2) The fee for inspecting a return or declaration (including any accompanying documents) specified in paragraph (1) above (which relates to the return and declarations of election expenses) shall be £1.50.

(3) The fee payable for a copy of any such return, declaration or document, shall be at the rate of 15p for each side of each page.

(4) After the expiry of those 2 years the appropriate returning officer—

(a) may cause those returns and declarations (including the accompanying documents) to be destroyed; or

(b) if the candidate or his election agent so require shall return them to the candidate.

(5) Any returns or declarations delivered under article 39 above shall be returned not to a candidate (if he or his election agents require) but to the person delivering them, if he so requires.

### **Inspection of returns and declarations: registered political parties**

**57.**—(1) Any return or declaration (including the accompanying documents) delivered to the Secretary of State under articles 40, 47 or 49 above—

(a) shall be kept at some convenient place in Scotland appointed by him; and

(b) shall at all reasonable times during the 2 years next after they are received by him be open to inspection by any person on payment of the fee set out in paragraph (2) below,

and the Secretary of State shall on demand and on payment of the fees set out in paragraph (3) below provide copies of them or any part of them.

(2) The fee for inspecting a return or declaration (including any accompanying documents) specified in paragraph (1) above (which relate to the return and declarations of election expenses) shall be £1.50.

(3) The fee payable for a copy of any such return, declaration or document, shall be at the rate of 15p for each side of each page.

(4) After the expiry of those 2 years the Secretary of State—

(a) may cause those returns and declarations (including the accompanying documents) to be destroyed; or

(b) if a party's nominating officer so requires, shall return them to him or such other person as the party's nominating officer may require.

(5) Any returns or declarations delivered under article 40 above shall be returned not to a party's nominating officer (if he so requires) but to the person delivering them, if he so requires.

### **Right to send election address post free**

**58.**—(1) At a Scottish parliamentary election—

(a) each candidate, for return as a constituency member;

(b) each individual candidate for return as a regional member;

(c) the nominating officer of each registered political party which has submitted a regional list, is entitled to send free of charge for postage either—

(i) one unaddressed postal communication, containing matter relating to the election only not exceeding 60 grammes in weight, to each place in the constituency or, in the case of an individual candidate for return as a regional member or a nominating officer of a registered party submitting a regional list for a particular region, each place in the region, which, in accordance with the Post Office Regulations 1987 (as applied and modified by paragraph (6) below) constitutes a delivery point for the purposes of this article; or

(ii) one such postal communication addressed to each elector.

(2) Any such candidate or, as the case may be, party's nominating officer is also, subject as mentioned in paragraph (1) above, entitled to send free of any charge for postage to each person entered in the list of proxies for the election one such communication as mentioned in paragraph (1) above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be a candidate for return as a constituency member or to be an individual candidate for return as a regional member for the purposes of this article unless he is shown as standing nominated in the statement of persons nominated but until publication of that statement any person who declares himself to be such a candidate shall be entitled to exercise the right of free postage conferred by this article if he gives such security as may be required by the Post Office for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) A registered party shall not be deemed to have submitted a regional list for the purposes of this article unless that party is shown as standing nominated in the statement published under rule 19 of the Scottish Parliamentary Election Rules but until the publication of that statement the nominating officer of a party which has submitted a regional list shall be entitled to exercise the right of free postage conferred by this article if he gives such security as may be required by the Post Office should the party not be shown as standing nominated as mentioned above.

(5) For the purposes of this article, “elector” means a person—

- (a) who is registered as a local government elector in the constituency or region for which the election is to be held in the register to be used at the election; or
- (b) who, pending the publication of that register appears in the electors' lists for such a register (as corrected by the registration officer) to be entitled to be so registered,

and accordingly includes a person shown in the register or electors lists as below voting age if it appears from that register or those lists that he will be of voting age on the day fixed for the poll, but not otherwise.

(6) The Post Office Regulations 1987 shall have effect in relation to a Scottish parliamentary election subject to the following modifications—

- (a) in regulation 1, the reference to “section 91 of the Representation of the People Act 1983” shall be construed as a reference to this article;
- (b) any reference to “constituency” shall—
  - (i) in relation to a candidate for return as a constituency member, be construed as a reference to a constituency for the purposes of the 1998 Act; and
  - (ii) in relation to a registered party’s nominating officer or individual candidate for return as a regional member be construed as a reference to a region for the purposes of the 1998 Act;
- (c) a reference to “candidate” shall be construed as including a reference to a registered party’s nominating officer; and
- (d) a reference to “the statement of persons nominated” in the case of an individual candidate for return as a regional member or a registered party’s nominating officer shall be construed as a reference to the statement published under rule 19 of the Scottish Parliamentary Election Rules.

(7) If the area of a regional returning officer is situated in the area of more than one Head Postmaster, the controlling Head Postmaster for the purposes of the Post Office Regulations 1987 as applied by paragraph (6) above shall be determined by that regional returning officer.

### **Broadcasting from outside United Kingdom**

**59.—**(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a Scottish parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990) 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 Independent Television Commission or the Radio Authority,

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

(2) An offence under this article shall be an illegal practice, but the court before whom a person is convicted of an offence under this article may, if they think 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 as applied by this Order.

(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 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, shall be deemed to be guilty of the illegal practice, unless he proves—

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

### **Imitation poll cards**

**60.** No person shall for the purpose of promoting or procuring a particular result at a Scottish parliamentary 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 59 above apply as if an offence under this article were an offence under that article.

### **Schools and rooms for Scottish parliamentary election meetings: candidates for return as constituency members**

**61.—(1)** Subject to the provisions of this article, a candidate for return as a constituency member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature to the use free of charge at reasonable times between the last day on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules 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 any school of which the premises are situated in the constituency or an adjoining constituency, not being an independent school within the meaning of the Education (Scotland) Act 1980(3) but a candidate is not entitled under this article to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of the constituency as those outside and are premises of a school to which this article applies.

(3) This article applies to meeting rooms situated in the constituency, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, 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—

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(3) 1980 c. 44.

- (a) shall 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) shall 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 from interference with a meeting room either for the purpose 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 sub-paragraph (b) of paragraph (4) above) the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

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

### **Schools and rooms for Scottish parliamentary election meetings: candidates for return as regional members**

**62.—**(1) Subject to the provisions of this article—

- (a) an individual candidate for return as a regional member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature; and
- (b) a registered party submitting a regional list is entitled for the purpose of holding public meetings for the purpose of promoting or procuring the giving of votes for that registered party,

to the use free of charge at reasonable times between the last date on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules and the day preceding the date of the poll of—

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

(2) This article applies to any school of which the premises are situated in the region, not being an independent school within the meaning of the Education (Scotland) Act 1980.

(3) This article applies to meeting rooms situated in the region, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate 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 candidate, or as the case may be, registered party by whom or on whose behalf the meeting is convened—

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

(5) A person 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) The provisions of Schedule 7 to this Order have effect with respect to the rights conferred by this article and article 61 above and the arrangements to be made for their exercise.

(7) For the purposes of this article (except those of paragraph (4)(b) above), the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

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

### **Disturbances at Scottish parliamentary election meetings**

**63.**—(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 shall be guilty of an illegal practice.

(2) This article applies to a political meeting held—

- (a) in relation to an election for return of a constituency member, in that constituency; and
- (b) in relation to an election for return of regional members, in that region,

during the period beginning with the last day on which notice of election may be published in accordance with the Scottish Parliamentary Election Rules and ending with the day of election.

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

### **Officials not to act for candidates**

**64.**—(1) If—

- (a) any constituency returning officer or regional returning officer;
- (b) any officer or clerk appointed under the Scottish Parliamentary Election Rules; or
- (c) any partner or clerk of any such person,

acts as an agent for a candidate or a registered party in the conduct or management of the election, he shall be guilty of an offence, but nothing in this article prevents a candidate from acting as his own election agent or a candidate on a registered party’s regional list from acting as election agent for that registered party in relation to that list.

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

### **Illegal canvassing by police officers**

**65.**—(1) No member of a police force shall, at a Scottish parliamentary election, by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy, for the return of any constituency or regional member where the constituency or region falls wholly or partly within the police area for which that police force is maintained.

(2) A person acting in contravention of paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

### **No hiring of vehicles to convey voters**

**66.**—(1) A person shall not let, lend, or employ any public vehicle for the purpose of the conveyance of electors or their proxies to or from the poll at a Scottish parliamentary election, and if he does so knowing that the public vehicle is intended to be used for that purpose he shall be guilty of an illegal hiring.

(2) A person shall not hire, borrow or use for the purpose of the conveyance of electors or their proxies to or from the poll at a Scottish parliamentary election any public vehicle the owner of which he knows to be prohibited by paragraph (1) above from letting, lending or employing for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3) In this article “public vehicle” means any public stage or hackney carriage or any carriage kept or used for the purpose of letting out for hiring.

### **No payments for conveyance of voters**

**67.** If any payment or contract for payment is knowingly made, either before, during or after a Scottish parliamentary election, for the purpose of promoting or procuring the giving of a vote for a candidate or registered party on account of the conveyance of electors or their proxies to or from the poll, whether for the hire of carriages, or for railway fares, or otherwise—

- (a) the person making the payment or contract; and
- (b) if he knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

### **Provisions supplemental to articles 66 and 67**

**68.** Nothing in articles 66 and 67 above prevents a carriage being let, hired, employed or used by an elector or his proxy or several electors or their proxies at their joint cost, for the purpose of being conveyed to or from the poll.

### **“Carriage” in articles 66 and 67**

**69.** In articles 66 and 67—

- (a) “carriage” includes for the purposes of those articles—
  - (i) any mechanically propelled vehicle intended or adapted for use on roads; and
  - (ii) any vehicle drawn by such a vehicle,
 and any such vehicle as so described shall be deemed to be a public vehicle for the purposes of article 66 if used as such; and
- (b) the provisions of those articles apply in relation to horses or other animals as they apply in relation to carriages, and any reference in article 66 to a public vehicle includes a reference to horses or other animals kept or used for drawing such vehicles.

### **Access to polling place by sea**

**70.**—(1) Where the nature of a Scottish parliamentary constituency or region is such that any electors or proxies for electors resident there are unable at a Scottish parliamentary election to reach their polling place without crossing the sea or a branch or arm of the sea, nothing in this Order prevents the provision of means for conveying those electors or proxies by sea to their polling place.

(2) The amount of any payment for such means of conveyance as are mentioned in paragraph (1) above may be in addition to the maximum amount of expenses allowed by this Order.



(3) No restriction on the expenses to be incurred by a returning officer shall prevent a returning officer employing special steamers or boats for the purposes of a Scottish parliamentary election in any constituency in Scotland having a polling place or polling places so situated as not to be accessible except by sea, but the expenses so incurred shall be included in the returning officer's account, and shall be subject to taxation.

### **False statements as to candidates**

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

- (a) before or during a Scottish parliamentary election;
- (b) for the purpose of affecting the candidate for whom, or registered political party for which, a vote is given at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of any candidate (including any candidate included in a registered party's regional list) shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A candidate shall not be liable, nor shall his election be avoided, for any illegal practice under paragraph (1) above committed—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by his agent other than his election agent;
- (b) in the case of a candidate included in a registered party's regional list, by the agent of that party other than its election agent,

unless—

- (i) it can be shown that the candidate or his election agent or in the case of a candidate on a registered party's regional list, that registered party's election agent in relation to that list has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
- (ii) 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 interdict or interim interdict of the Court of Session or the sheriff court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate or candidates.

(4) Any person who, before or during a Scottish parliamentary election, knowingly publishes a false statement of a withdrawal of candidature at the election for the purpose of promoting or procuring a particular result at that election shall be guilty of an illegal practice.

(5) A candidate shall not be liable, nor shall his election be avoided, for any illegal practice under paragraph (4) above committed by his agent (or in the case of a candidate included in a party's regional list, the agent of that party) other than the election agent for that candidate, or as the case may be, party.

### **Corrupt withdrawal from candidature**

**72.** Any person who corruptly induces or procures any other person to withdraw from being a candidate at a Scottish parliamentary election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

### **Premises not to be used as committee rooms**

73.—(1) If a person at a Scottish parliamentary election—

- (a) hires or uses any premises to which this article applies, or any part of them, for a committee room for the purpose of promoting or procuring a particular result at the election; or
- (b) lets any premises to which this article applies, or any part of them, knowing that it was intended to use them or that part as a committee room,

he shall be guilty of an illegal hiring.

(2) This article applies to the premises of all schools other than independent schools within the meaning of the Education (Scotland) Act 1980.

(3) For the purposes of this article, the premises of a school shall be taken to include any dwelling house which forms part of the school and is occupied by a person employed for the purposes of the school.

### **Payments for exhibition of election notices**

74.—(1) No payment or contract for payment for the purpose of promoting or procuring a particular result at a Scottish parliamentary election shall be made to an elector or his 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 an election—

- (a) the person making the payment or contract; and
- (b) if he knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

### **Printer's name and address on election publications**

75.—(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to a Scottish parliamentary election or any printed document distributed for the purpose of promoting or procuring a particular result at the election; or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above; or
- (c) distribute or cause to be distributed any printed document for that purpose,

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of this article, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this article shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding the amount specified as level 5 on the standard scale.

### **Prohibition of paid canvassers**

76. If a person is, either before, during or after a Scottish parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a particular result at the election—

- (a) the person so engaging or employing him; and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

### **Providing money for illegal purposes**

77. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Order;
- (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 in pursuance of section 167 of the 1983 Act as applied by this Order to be an exception, that person shall be guilty of an illegal payment.

### **Bribery**

78.—(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf –

- (a) gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting;
- (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, a particular result at a Scottish parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure a particular result at a Scottish parliamentary election or the vote of any voter.

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

- (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 shall be guilty of bribery if he 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 shall be expended in bribery at a Scottish parliamentary 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 any such election.

(5) The foregoing provisions of this article shall not extend or be construed to extend 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 Scottish parliamentary election.

(6) A voter shall be guilty of bribery if before or during a Scottish parliamentary election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person shall be guilty of bribery if after a Scottish parliamentary election he directly or indirectly by himself or by any other person on his 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**

**79.**—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a Scottish parliamentary 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 his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

### **Undue influence**

**80.**—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself 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, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

### **Rights of creditors**

**81.** 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 an 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 Scottish parliamentary elections**

**82.**—(1) Where a person has been declared by others to be a candidate at a Scottish parliamentary election without his consent, nothing in this Part shall be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated.

(2) Nothing in this Part makes it illegal for an employer to permit any elector or proxy to absent himself from his employment for a reasonable time for the purpose of voting at the poll at a Scottish parliamentary election without having any deduction from their salaries or wage 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 his employment; and
- (b) is not given with a view to inducing any person to record his vote for any particular candidate or, as the case may be, registered party at the election; and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate or, as the case may be, registered party,

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

### **Interpretation of Part III**

**83.** In this Part, unless the context otherwise requires—

“candidate” in relation to a Scottish parliamentary election, means a person who is—

- (a) elected to serve in the Parliament at the election;
- (b) nominated as a candidate; or
- (c) declared by himself or by others to be a candidate on or after publication of the notice of election;

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing in it electors, committee members or others;

“date of allowance of an authorised excuse” has the meaning given by article 53(9) above;

“declaration as to election expenses” means a declaration made under articles 48 or 49 above;

“disputed claim” has the meaning given by article 44(1) above as extended by article 45 above;

“election expenses”, in relation to a Scottish parliamentary election, means expenses incurred, whether before, during or after the election, on account of or in respect of the conduct or management of the election;

“money” and “pecuniary reward” shall (except in article 78 and 79 above) be deemed to include—

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

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

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

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under articles 46 and 47 above.

### **Computation of time for purposes of Part III**

**84.**—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and
- (b) in computing any period of not more than seven days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) above are a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971<sup>(4)</sup>, or a day appointed for public thanksgiving or mourning.

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(4) 1971 c. 80.