
STATUTORY INSTRUMENTS

2003 No. 284

The National Assembly for Wales
(Representation of the People) Order 2003

PART III

THE ELECTION CAMPAIGN

Constituency and individual candidates: prohibition of expenses not authorised by election agent etc

44.—(1) No expenses shall, with a view to promoting or procuring the election of a constituency or individual candidate at an Assembly election, be incurred at such an election by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account —

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) in the case of a constituency election, of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate; or
- (d) in the case of a regional election, of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another individual candidate or any or all of a group of party list candidates,

but sub-paragraphs (c) and (d) 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 incurred by any person which do not exceed in the aggregate the sum of £500 in the case of a constituency election or £1,000 in the case of a regional election (and are not incurred by that person as part of a concerted plan of action), or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

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

(3) Where a person incurs any expense in respect of an individual candidate required by this article to be authorised by the election agent —

(1) 1990 c. 42.

(2) 1996 c. 55.

- (a) that person shall within 21 days after the day on which the result or results of the election are declared deliver to the appropriate returning officer a return of the amount of those expenses stating the constituency or regional 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.

(4) The return and declaration under the foregoing provisions of this article shall be in the forms set out in English and Welsh in Schedule 7, and the authority received from the election agent shall be annexed to and deemed to be part of the return.

(5) A copy of every return and declaration made under paragraph (3) in relation to an Assembly election shall be sent to the Assembly within 21 days after the day on which the result of the election is declared by the person making the return or declaration and paragraph 64 of Schedule 5 applies to any documents sent to the Assembly under this article.

(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) 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 just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of article 122, 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.