

EXPLANATORY MEMORANDUM TO
THE REPRESENTATION OF THE PEOPLE (VARIATION OF ELECTION
EXPENSES AND EXCLUSIONS) REGULATIONS 2024

2024 No. 428

1. Introduction

- 1.1 This instrument has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

- 2.1 This instrument uprates the maximum campaign spending limits at Greater London Authority and local authority mayoral elections in England to reflect inflation since the limits were set in legislation. This instrument also provides an exclusion for reasonable security expenses incurred by candidates, political parties and third-party campaigners for Great Britain, other than in certain elections in Scotland and Wales. Consequently, such expenses are not to count towards the relevant spending limit.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland, and Northern Ireland.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland, and Northern Ireland.

5. European Convention on Human Rights

- 5.1 Simon Hoare, Parliamentary Under Secretary of State for the Department for Levelling Up, Housing and Communities, has made the following statement regarding Human Rights:

“In my view the provisions of the Representation of the People (Variation of Election Expenses and Exclusions) Regulations 2024 are compatible with the Convention rights.”

6. Legislative Context

Uprating of spending limits

- 6.1 Electoral legislation allows for certain sums to be amended to reflect changes in the value of money.
- 6.2 The Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 amended section 76 of the Representation of the People Act 1983 to provide the campaign spending limit for local authority mayors. This instrument uprates that limit to reflect changes in the value of money since the limit was set.

- 6.3 The Greater London Authority Elections (Expenses) Order 2000 contains the spending limits for Greater London Authority Elections. Article 3 of this Order sets the limits for candidates at elections for the Mayor of London and the Greater London Assembly. This instrument updates these limits to reflect changes in the value of money since the limits were set.
- 6.4 The UK government has recently updated other limits on campaign spending and reporting of donations:
- 6.4.1 The Representation of the People (Variation of Election Expenses, Expenditure Limits and Donation etc. Thresholds) Order 2023 came into force on 21 November 2023. This Order increased the spending limits at UK parliamentary elections, Northern Ireland Assembly elections and local government elections in England, and certain donations reporting thresholds for registered political parties, regulated donees and permitted participants. The uplifts take into account inflation since the limits or thresholds were set.
- 6.4.2 The Police and Crime Commissioner Elections (Amendment) Order 2023 came into force on 12 December 2023. This Order increased the limits for candidate election expenses for Police and Crime Commissioner elections to take into account inflation since the limits were set in 2012.
- 6.4.3 The Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2024 was laid before Parliament on 11 December 2023. It updates the limits for candidates at combined authority mayoral elections.

Exempting security-related expenses

- 6.5 Electoral law defines campaign spending for candidates, political parties, and third-party campaigners. The law also sets out a list of exclusions to the general rules. This instrument inserts a general exclusion for reasonable expenses incurred in providing for the personal security and property of candidates, political parties and third parties so that these expenses are not counted towards campaign spending limits.
- 6.6 Sections 72 and 85 of the Political Parties, Elections and Referendums Act 2000 (“PPERA”) defines campaign spending for political parties and third-party campaigners. Within schedules 8 and 8A to PERPA there are a list of matters that qualify as campaign spending and a list of exclusions. The exclusion for reasonable security expenses is inserted into the relevant lists.
- 6.7 A similar format of definitions and exclusions for campaign spending can be found at section 90ZA and schedule 4A to the Representation of the People Act 1983 (“RPA”) which applies, either directly or indirectly through other regulations, to candidates at: UK parliamentary general elections; Northern Ireland Assembly elections; Combined Authority Mayoral elections; Greater London Authority elections; Mayoral elections in England; Local elections in England; and by-elections in any of the above. Schedule 4A is similarly amended.
- 6.8 The Police and Crime Commissioner Elections Order 2012 sets out the definition and exclusions for campaign spending by Police and Crime Commissioner candidates at article 50 and schedule 7. The same exclusion is inserted into Schedule 7.
- 6.9 The Secretary of State is required to consult the Electoral Commission in relation to the uprating of spending limits for local authority mayoral elections and the amendment of exclusions to qualifying expenses in Schedules 8 and 8A to PERPA and Schedule 4A to the RPA.

- 6.10 Regulation 5 removes legislation which is now redundant due to the transfer of Police and Crime Commissioner functions for those police areas to the relevant mayor.

7. Policy background

What is being done and why?

Uprating of spending limits

- 7.1 In December 2020, the Government increased spending limits for candidates at local government elections in England in line with inflation from 2014. This was to ensure that spending limits remain aligned in real terms with the original limits set by Parliament. At the same time, the Minister for the Constitution and Devolution announced the Government's intention to review party and candidate spending limits for reserved elections with a view to uprating them in line with inflation since they were last set.
- 7.2 Following consultation with the Parliamentary Parties Panel, the Government confirmed its intention to uprate certain spending limits and provide an exemption on security expenses by a written ministerial statement issued on 20 July 2023.
- 7.3 In paragraph 6.4 above there are details of the changes that have already been made to implement the uprating of certain limits for campaign spending to reflect changes in the value of money in the years since the limits were set.
- 7.4 This instrument is the fourth of four statutory instruments which uprate spending limits. It increases the limits for campaigning at Greater London Authority and local authority mayoral elections in England. The limits for Greater London Authority elections have not been increased since they were set in 2000, while the limits for local authority mayoral elections have not been increased since they were set in 2007. This means that spending limits are effectively lower in real terms, which puts greater constraints on candidates as the costs of campaign spending increases over time.
- 7.5 This instrument increases the Greater London Authority candidate limits by inflation from the year 2000 when they were set until July 2023, which represents the most up to date inflation figures available at the time of legal drafting. Changes in CPI were used as a measure of inflation. This equates to an increase of 81.05% (rounded here to 2 decimal points). After calculating for the increase, limits have been rounded down to the nearest £10 to make them more user-friendly.
- 7.6 The increase for Local Authority elections in England reflects inflation since 2017, rather than when they were set in 2007, to ensure the maintenance of parity between spending limits for combined authority mayoral elections, combined county authority mayoral elections and local authority mayoral elections. The Combined Authorities (Mayoral Elections) Order 2017 (Amendment) Regulations 2024 uprates candidate expense limits for combined authority mayors in line with CPI inflation since they were set in 2017 until July 2023. This increases the limits by 29.09% (rounded here to 2 decimal points) and the calculation was then rounded down to the nearest £10 to make the figure more user-friendly. This instrument uprates the local authority limit to the same value to ensure the maintenance of parity, given the limits for combined authority mayors was originally intended to align with limits for local authority mayors.

Exempting security-related expenses

- 7.7 In November 2021, following the murder of Sir David Amess, the Electoral Commission asked the UK government to consider the exemption provided for in Scottish legislation which makes clear that security expenses at election campaign events do not count towards the spending limits for candidates or political parties.
- 7.8 The Government’s view is that, in general, spending on security would not constitute campaign expenditure under existing electoral law. However, the Government has decided that an explicit exemption in law is necessary to ensure that the law is clear for campaigners.
- 7.9 This instrument implements the Government’s commitment to provide an exemption for security related spending, so it is clear that the campaigning finance rules (in particular spending limits) do not apply to this type of spending.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 No consolidation is required as a result of this instrument.

10. Consultation outcome

- 10.1 Members of the Parliamentary Parties Panel (“PPP”) were consulted by the Cabinet Office in 2020 on uprating of various election spending limits. Three parties provided written responses. These responses revealed a general support for increasing limits at general elections, and a mixed response to increasing limits for local elections. Following this engagement with PPP members, the Government increased candidate spending limits at local elections in England and committed to reviewing other spending limits at reserved polls with a view to increasing them in line with inflation. In September 2022, the then Secretary of State for Levelling Up, Housing and Communities, Greg Clark MP, wrote to the members of the PPP to confirm this commitment and to consult them on increasing other sums in legislation and exempting reasonable security related expenses. This letter was published on gov.uk and both responses received supported the uprating of spending limits at reserved polls. One party did not respond to the question of security related expenses, however, the other fully supported the exemption.
- 10.2 In November 2023 the Electoral Commission responded to the Government’s consultation on this instrument. The Commission were content that the instrument exempts security expenses from contributing to campaign spending limits.
- 10.3 The Commission’s view was that the spending limits increases were significant and they had not seen evidence of the impacts, or evidence of a wider consultation of campaigners affected by the changes. However, the government considers that CPI inflation indicates that the value of money has changed significantly during the period since these limits were set, and therefore uprating in line with inflation ensures that the limits continue to reflect the original intent of the legislation.

11. Guidance

- 11.1 The Electoral Commission must make campaigners aware of the rules that apply to any relevant election. The Commission usually publish updated guidance for campaigners ahead of each election.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant impact on business, charities, voluntary bodies or the public sector is foreseen.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 No monitoring or review of this instrument is planned.

15. Contact

- 15.1 Donald MacKinnon at the Department for Levelling Up, Housing and Communities, Telephone: 07871734061 or email: donald.mackinnon@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Becca Crosier, Deputy Director for Elections, at the Department for Levelling Up, Housing and Communities, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Simon Hoare, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities, can confirm that this Explanatory Memorandum meets the required standard.