

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part X : Miscellaneous and general

Section 141 : Reduction of qualifying period for overseas electors

286. *Section 141* amends sections 1 and 3 of the Representation of the People Act 1985 so as to reduce the qualifying period for registration as an overseas elector from twenty years to fifteen years. The qualifying period was initially set at five years by the 1985 Act. It was subsequently raised to twenty years by the Representation of the People Act 1989.

Section 142 : Pre-consolidation amendments

287. *Section 142* makes two technical changes to the European Parliamentary Elections Act 1978. The need for these changes emerged during the drafting of a Bill to consolidate the European Parliamentary Elections Acts 1978, 1993 and 1999. *Subsection (2)* corrects a defect in paragraph 5(4) and (4A) of Schedule 1 to the 1978 Act. That paragraph provides for the consequences where a disqualified person is elected under section 3 of the 1978 Act, which concerns elections in Great Britain, without providing for the consequences where the person is elected under section 3A, which concerns elections in Northern Ireland. *Subsection (3)* corrects a similar defect in paragraph 6 of Schedule 1 to the 1978 Act, which is concerned with judicial proceedings as to the disqualification of an MEP.

Section 143 : Details to appear on election material

288. *Section 143* requires that advertisements and other election material designed to promote or procure the electoral success of a registered party or candidates who hold particular opinions must include certain specified information. *Subsections (2) to (5)* are concerned with printed documents such as leaflets, posters and newspaper advertisements. *Subsection (2)* specifies the relevant details that must be included in a printed document, namely the name and address of the printer, promoter, and any other person on behalf of whom the material is published (and who is not the promoter). The “promoter” of the material (in *subsection (2)(b)*) is intended to cover the agent of the registered party or third party who caused the material to be published. The person referred to in *subsection (2)(c)* is the registered party or third party itself. *Subsection (3)* is concerned with a single-sided document such as a poster. *Subsection (4)* is concerned with documents of two or more sides such as a leaflet. *Subsection (5)* is concerned with advertisements in newspapers or periodicals. *Subsections (6) and (7)* enable regulations to be made imposing requirements as to the inclusion of relevant details in any election material which is not a printed document. *Subsections (8) to (10)* create offences and provide for a defence where a contravention of the requirements took place in circumstances beyond a person’s control (for example, where the agent of a party supplied to a newspaper the text of an advertisement which included the relevant details,

but owing to an error by the newspaper publisher these details did not appear in the advertisement as printed). *Subsection (11)* defines certain terms used in the section, including “election material” which has the same meaning as in *section 85(3)*.

Section 144 : Broadcasting of local items during election period

289. *Section 144* substitutes a new section 93 of the Representation of the People Act 1983. The existing section 93 imposes two restrictions on broadcasting during parliamentary and local elections. The first restriction, set out in section 93(1)(a), is that pending an election it is not lawful for an item about the constituency or electoral area to be broadcast if any of the persons who are candidates at the election takes part in the item and the broadcast is not made with his consent. There is thus a legal requirement for the candidate’s consent to the broadcasting of an item in which he has taken part must be secured by the person responsible for making the broadcast.
290. The second of the present restrictions, contained in section 93(1)(b), is that if an item about the constituency or local government electoral area, as appropriate, is broadcast pending an election, then if the broadcast either is made before the last time for the delivery of nomination papers or is made after that time but without the consent of any candidate validly nominated for the election, any person taking part in the item for the purposes of promoting or procuring his election is guilty of an illegal practice unless the item is made without his consent. The object of the restriction is to prohibit an electioneering broadcast made before all the candidates have been nominated or one which is made without the consent of all the candidates.
291. These restrictions have been criticised by the broadcasting authorities (BBC, Independent Television Commission, Radio Authority and the Welsh Channel Four Authority) for effectively giving any candidate a veto over the broadcasting of an item relating to a particular parliamentary constituency or local government electoral area.
292. To address this the new section 93 does away with the current restrictions and instead places a duty on the broadcasters to adopt up a code of practice concerning the involvement of candidates in election period broadcasts about the constituency or local government electoral area. Before drawing up such a code the broadcasters are required to have regard to any views expressed by the Electoral Commission about its contents.

Section 145 : General function of Commission with respect to monitoring compliance with controls imposed by the Act etc.

293. *Section 145* confers on the Electoral Commission the general function of monitoring compliance by registered political parties, recognised third parties and permitted participants in a referendum with the restrictions and other requirements set out in Parts III to VII of the Act. In addition, the Commission is also to monitor compliance with the restrictions on candidates’ expenses and on donations to candidates imposed by the Representation of the People Act 1983 (as amended) and other enactments relating to elections.

Section 146 : Supervisory powers of Commission

294. *Section 146* empowers the Electoral Commission to require registered political parties, recognised third parties, permitted participants in a referendum campaign, regulated donees and candidates at an election to provide information to the Commission relating to their financial affairs. A person authorised by the Commission may also enter the premises of a registered party, recognised third party or permitted participant to inspect their financial records.

Section 147 : Civil penalty for failure to deliver documents etc

295. *Section 147* creates a civil penalty for failure to deliver specified documents to the Electoral Commission as required under Parts III to VII. *Subsections (3) and (4)*, which

are modelled upon the financial penalties to which public companies are liable for failure to submit accounts under section 242A of the Companies Act 1985, provide for a scale of penalties based upon the length of the period during which the party has failed to comply with the relevant requirements. However, unlike the equivalent penalties under the Companies Act, which are recovered administratively, the Commission will, under *subsection (5)*, recover the penalties as a debt through the courts.

Section 148 : General offences

296. *Section 148* creates general offences intended to guard against the evasion of the requirements of any provisions of the Act through the alteration or suppression of relevant documents or through the withholding or false supply of information.

Section 149 : Inspection of Commission's registers etc

297. *Subsection (1)* provides for public access to the various registers maintained by the Electoral Commission, namely the registers of:
- a) political parties;
 - b) recordable donations;
 - c) recognised third parties; and
 - d) permitted participants in a referendum campaign.
298. *Subsection (6)* makes similar provision for public access to documents which are required to be deposited with the Commission, namely:
- a) political parties' annual statements of accounts;
 - b) political parties' returns as to campaign expenditure;
 - c) recognised third parties' returns as to controlled expenditure; and
 - d) permitted participants' returns as to referendum expenses.
299. The Electoral Commission will be required to make the registers and documents available for public inspection during ordinary office hours and, in addition, may make other arrangements for access to their contents (for example, it might make copies of the registers available on the Internet). *Section 149*, in its application to the register of political parties, replaces section 11 of the Registration of Political Parties Act 1998 which provides for public right of access to the register to be determined by regulations.

Sections 150 to 154 : Provisions relating to offences

300. *Section 150 and Schedule 20* set out the penalties for all the criminal offences created by the Act.
301. *Sections 151 to 153* are concerned with summary proceedings and offences committed by bodies corporate and unincorporated associations. *Section 154* requires the courts to notify the Electoral Commission of the conviction of any person under the provisions of the Act or under any enactment relating to elections. Such notifications will enable the Commission to check whether a person registered as a party's treasurer or as the treasurer of an accounting unit, or as a deputy treasurer, is disqualified from holding such office by virtue of sections 24(8), 27(3) and 74(3) respectively.

Section 155: Power to vary specified sums

302. *Section 155* confers a power on the Secretary of State (for these purposes the Home Secretary) to vary any sums set out in the Act (save those specified in sections 12(8) and 36(5)). Save where any sum is simply being updated to allow for inflation, any variation must be on the recommendation of the Electoral Commission.

Section 156 : Orders and regulations

303. *Section 156* provides for the Secretary of State's powers to make orders and regulations.

Section 157 : Documents for purposes of the Act

304. *Section 157* sets out requirements in respect of documents.

Section 158 : Minor and consequential amendments and repeals

305. *Section 158* gives effect to *Schedules 21 and 22* which set out minor and consequential amendments and repeals.