

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part II: Registration of political parties

69. The purpose of Part II of the Act is to put in place arrangements for bringing political parties within the scheme of control set out in Parts III to V for regulating their income and expenditure. These arrangements take the form of a scheme of registration, building upon the existing registration arrangements established under the Registration of Political Parties Act 1998. This Act repeals much of the 1998 Act (see Schedule 22), and this Part of the Act re-enacts its provisions but with significant modifications.

Section 22 : Parties to be registered in order to field candidates at elections

70. The registration scheme established by the Registration of Political Parties Act 1998 is voluntary in nature. If the controls on income and expenditure set out in this Act are to be effective, however, then the means by which parties are brought within the ambit of those controls must, to all intents and purposes, be binding upon those parties which it is intended should be subject to those controls. The intention is that the controls on political parties' income and expenditure should apply to any organisation that has a candidate at a relevant election. The purpose of *section 22* is to provide the mechanism by which such organisations are brought within the registration scheme. Its effect is to require that an organisation wishing to put up candidates at a relevant election, as defined in *subsection (5)*, must be registered as a political party with the Electoral Commission. It does so by providing that a person may only stand as a candidate at a relevant election if his nomination paper is accompanied by a certificate authorising his candidature issued by, or on behalf of, the nominating officer of a registered party or if his nomination paper either gives the description "Independent" or gives no description whatsoever. Special provision is, however, made for the Speaker of the House of Commons who may continue to seek re-election using the description "The Speaker seeking re-election". In the case of elections to the Scottish Parliament, the National Assembly for Wales or the Greater London Assembly under the additional member system, a party will only be able to be nominated to stand if it is a registered party; this rule also applies to elections to the European Parliament in Great Britain under the regional list system of election (see *subsection (1)(c)*). The restrictions on candidates' descriptions do not apply to parish council elections in England or community council elections in Wales (*subsection (4)*).

Section 23 : The new registers

71. Responsibility for the registration of political parties will transfer from the Registrar of Companies (as currently provided for under section 1 of the Registration of Political Parties Act 1998) to the Electoral Commission. The existing single register of political parties will be replaced by two new registers: the Great Britain register and the Northern Ireland register (*subsection (2)*). A separate register of Northern Ireland parties is

required in order to identify those political parties which would attract the special provisions in respect of the control of donations as provided for in any order made under section 70 of the Act.

72. A party registered in the Great Britain register will either be registered throughout the whole of Great Britain or alternatively have its registration confined to one or two parts. The register will also signify whether a party is a minor party, that is a party that intends to contest only parish or community council elections (*subsection (3)*).
73. A party may be registered in both the Great Britain register and the Northern Ireland register, but in such a case is treated as two separate registered parties (*subsection (4)*) and must organise its financial affairs in such a way that the affairs of the Great Britain registered party are conducted separately from the Northern Ireland registered party (*subsection (5)*).

Section 24 : Office-holders to be registered

74. *Subsection (1)* requires each registered party to have three registered office-holders, namely a registered leader, registered nominating officer and registered treasurer. The same person may be registered as the holder of two or three of these offices. *Subsections (2) and (3)*, which relate to the registered leader and registered nominating officer respectively, reproduce the provisions in paragraphs 4(2) and 5(2) of Schedule 1 to the Registration of Political Parties Act 1998. The requirement for registered parties to have a registered treasurer is new. *Subsection (4)* provides that the registered treasurer is to be responsible for compliance with the accounting requirements in Part III and the controls on donations in Part IV and, unless a person is registered as the party's campaigns officer, with the controls on election and referendum expenditure in Parts V to VII. It is made an offence to register as the treasurer of a party a person who, within the past five years, has been convicted of an offence under the provisions of the Act or in connection with a relevant election.

Section 25 : Parties with campaigns officers

75. Under *section 25* a registered party may elect to register a campaigns officer who would be responsible (in place of the registered treasurer) for compliance on the part of the party with the controls on election and referendum expenditure in Parts V to VII. Relevant provisions of the Act, particularly those in Parts V to VII, are modified so that references to a party's registered treasurer are to be read as references to a party's campaigns officer.

Section 26 : Financial structure of registered parties : adoption of scheme

76. It is intended that the registration process should serve to identify exactly what constitutes a particular registered party for the purposes of these controls. Parties in the United Kingdom are constituted in different ways. Some have a federal structure while others are more centralised. Party structures may also feature relationships between a central organisation and affiliated or associated bodies which may also have a separate and independent existence of their own and which may not necessarily be wholly comprised of members of the party in question. In some instances it may be more appropriate to regard such affiliates or associated bodies, for the purposes of the controls on party funding, as donors to the party rather than as a constituent part of the party apparatus.
77. *Section 26* is, therefore, intended to enable the Electoral Commission to pin down those constituent parts of a registered party's organisation which are to be required to comply, whether separately or through the party's central organisation, with the controls set out in Parts III to VII of the Act. Each party applying for registration must propose a scheme setting out the arrangements for regulating the financial affairs of the party and the scheme must be approved by the Electoral Commission before the application is granted. Where the Commission is not satisfied that the proposed scheme

properly reflects the organisation of the party it may request that the proposed scheme be modified. The arrangements for the adoption of schemes in relation to those parties which are already registered under the Registration of Political Parties Act 1998 are set out in Part I of Schedule 23.

78. Under *subsection (8)*, certain organisations (namely, trade unions, friendly societies, industrial and provident societies and other bodies which may be specified by order) are not to be regarded as forming a constituent part of a party for the purposes of a scheme adopted under this section. As a result, money donated to such an organisation which is affiliated to a registered party would not be treated as a donation to that party. But a donation from such an organisation to the registered party (including an affiliation fee) would have to be treated as a donation to the party and not simply as an internal party transaction. The Registered Parties (Non-constituent and Non-affiliated Organisations) Order 2000 (SI 2000/3183) adds to the list of organisations which are not to be treated as part of a party for the purposes of this section.

79 Subsection (2) provides for a distinction to be drawn between parties which are to be regarded for the purposes of the Act as a single unitary organisation and parties which are to be regarded as consisting both of a central organisation and of other units or organisations (for example constituency associations, local branches and women and youth organisations) which will have separate responsibility for their accounts. These subsidiary units or organisations are described as “accounting units”. If a party scheme falls into the latter category the party will be required to adopt a scheme clearly identifying which parts of its organisation constitute its central organisation and which constitute its accounting units (*subsection (3)*).

80. *Subsection (7)* provides for the adoption of a replacement scheme, for example following changes to a party’s structure. A replacement scheme cannot take effect until approved by the Electoral Commission.

Section 27 : Financial structure of registered party : accounting units

81. This section provides that where a party is a party with accounting units, the party is required to register a person as the treasurer of each separate accounting unit. A second officer of each accounting unit must also be registered; it will fall to that officer to take over the responsibilities of the treasurer of the accounting unit in the event of a vacancy arising in the post of treasurer.

Section 28 to 33 : Registration

82. *Sections 28 to 33* re-enact, with modifications, sections 2, 3, 4, 5 and 6(1) to (4) of the Registration of Political Parties Act 1998. Together with Parts I and II of Schedule 4, they set out the procedure for applying for the registration of parties and of their emblems and for making changes to the register. *Section 28* deals with the registration of parties. An application for registration will need to include a declaration which identifies that the party is seeking registration:

- (a) in both the Great Britain register and Northern Ireland register;
- (b) in the Great Britain register only;
- (c) in the Northern Ireland register only; or
- (d) in the Great Britain register only as a minor party.

A declaration within paragraphs (a), (b) or (d) must specify the part or parts of Great Britain in respect of which the party is seeking to be registered.

83. *Subsection (4)* of *section 28* sets out the grounds on which the Commission may refuse an application for registration. The first such ground (*section 28(4)(a)*) is that the applicant party’s proposed registered name is, in the opinion of the Commission, either

the same as that of a party which is already registered in the relevant register or likely to result in electors confusing that party with a party which is already registered in respect of the relevant part of the United Kingdom. If, for example, the Progressive Party was already registered in the Great Britain register but with its registration confined to England, the Commission would be obliged to refuse an application from another party seeking to be registered under the same name in any part of the Great Britain register, but could accept an application from a party applying to register in respect of Scotland alone as the 'Scottish Progressive Party'.

84. *Section 28(4)(f)* provides for an application to be refused if the applicant party proposes a name which includes any word or expression prohibited by an order made by the Secretary of State (see the Registration of Political Parties (Prohibited Words and Expressions) Order 2001 (SI 2001/82)).
85. *Sections 32(5) and 34(6), paragraph 1(2) and 8(2) of Schedule 4 and paragraph 11(2)(b) of Schedule 23* provide for the payment of fees in respect of an application for registration, an application to have a party's registered entry altered or an annual confirmation by a party of its registered particulars. The level of fees is prescribed by the Registration of Political Parties (Fees) Order 2001 (SI 2001/83).
86. A party's entry in the Great Britain or Northern Ireland register will now contain the following information:
- i) the registered name of the party;
 - ii) the address of the party's headquarters;
 - iii) the name of the party's registered leader, registered nominating officer registered treasurer and, if applicable, registered campaigns officer. If one person holds all three (or, as the case may be, four) offices, the party must name the holder of some other specified office in the party.
 - iv) where a party is a party with accounting units, the name and headquarters address of each accounting unit and the name of the treasurer and one other officer of each such unit;
 - v) the registered emblems of the party;
 - vi) the name and office address of up to twelve deputy treasurers (or deputy campaigns officers) (see section 74);
 - vii) the date of registration;
 - viii) any other information prescribed by the Electoral Commission in accordance with paragraph 6 of Schedule 4.

In the case of the Great Britain register the register will also show whether the party is a minor party and the part or parts of Great Britain in respect of which the party is registered.

87. *Section 31* requires the registered treasurer to notify the Commission of changes to the name or address of any of the party's registered officers, the address of the party's headquarters, the name of either of the registered officers of any accounting unit and the name and address of any accounting unit. Any change in the registered officers of the party must be notified within 14 days of the termination of the appointment (by death or otherwise) of the incumbent. All other changes must be notified to the Commission within 28 days of the change occurring. A party may apply for the other registered particulars of the party to be altered in accordance with the provisions of *section 30*.
88. *Section 32* requires the registered treasurer of a party to provide the Electoral Commission with an annual notification that the particulars of a party's entry in the register remain accurate and complete. The annual notification must also provide details

of any changes to the party's constitution. This must be provided with the annual statement of accounts (see section 45).

89. It is possible, under the provisions of *section 33*, for a party to apply to be removed from the register. But removal is conditional upon the party declaring that it does not intend to have any candidates at any relevant election, as defined by section 22(5), and there is the additional safeguard that a party (other than a minor party) which is removed from the register in accordance with this section will nevertheless remain subject to the requirements of Parts III and IV of the Act in relation to its accounts and donations until the end of the financial year following the removal of the party's entry in the register.

Section 34 : Registration of minor parties

90. *Section 34* makes provision for the registration of minor parties, that is parties which have made a declaration to the effect that they intend only to contest parish or community council elections. *Subsection (2)* disapplies in respect of a minor party those provisions in Part II relating to the registration of a treasurer or campaigns officer, together with sections 26, 27 and 36. The provisions of Parts III, IV and V are separately disapplied in the case of minor parties by sections 41(9), 50(9) and 72(10) respectively.

Section 35 : Request by Secretary of State

91. *Section 35* re-enacts section 12 of the Registration of Political Parties Act 1998. Under section 12 of the 1998 Act the Registrar of Companies has been requested to send a copy of the register to returning officers at the time of a relevant election so that they can verify the names of registered parties.

Section 36 : Assistance by Commission for existing registered parties

92. *Section 36* enables the Commission to provide financial and other assistance to existing registered parties to help them meet the initial costs involved in complying with the provisions of Parts III and IV. Up to £700,000, in aggregate, may be allocated to existing registered parties whether in grants or benefits in kind (for example, a computer software programme for recording donations). The method of apportioning this sum to parties will be determined by the Commission in accordance with a scheme prepared by them.

Clauses 37 to 40 : Supplemental

93. *Sections 37 and 39* re-enact sections 14 and 19 of the Registration of Political Parties Act 1998 respectively. They prevent broadcasters from transmitting a party political broadcast on behalf of a party which is not a registered party, and make it a criminal offence for any person knowingly or recklessly to provide the Electoral Commission with a false statement for the purpose of this Part of the Act. *Section 38* makes consequential amendments to the parliamentary elections rules set out in Schedule 1 to the Representation of the People Act 1983. *Section 39* defines terms used in Part II. The section re-enacts, with modifications, the interpretation section (section 22) of the Registration of Political Parties Act 1998.