

POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part III: Accounting requirements

94. In paragraph 4.42 of their report, the Neill Committee recommended that the public should be entitled to have access to the annual accounts of income and expenditure of every political party and that this should be put on a statutory basis. Part III of the Act establishes a statutory scheme for this purpose. Many political parties already prepare, and some of them publish, annual accounts. A statutory scheme has, however, to start from scratch and quite detailed provisions are therefore required. Elements of the scheme are drawn from provisions of Part VI of the Charities Act 1993, which in turn are partly modelled on the Companies Act 1985.

Section 41 : Duty to keep accounting records

95. *Section 41* requires the treasurer of a registered party to keep proper accounting records, as a basis for the preparation of an annual statement of accounts. The records must cover both the transactions which the party enters into and its assets and liabilities. They must be preserved for at least six years from the end of the financial year in which they are made (*subsection (4)*), or until the Electoral Commission has consented to their disposal following de-registration of the party (*subsection (5)*).
96. Political parties in the United Kingdom do not at present share a common accounting year. The Neill Committee recommended (recommendation 4) that the Commission should be able to prescribe a common accounting period. *Subsections (6)* and *(7)* confers the necessary power on the Electoral Commission to specify a common financial year, but it may also specify different financial years for different parties, which might be done so as to enable parties to retain their existing financial year.

Section 42 : Annual statement of accounts

97. *Section 42* establishes a requirement to prepare an annual statement of accounts. *Subsection (2)* empowers the Electoral Commission to make regulations specifying the form and contents of a statement of accounts. The intention is that, over time, the Commission should be able to require best practice to be followed and ensure that the parties' accounts can be fairly compared with each other. The regulation-making power may be used, in particular, to specify information which is to be provided by way of notes to the accounts. The Commission could exercise this power to require, for example, that the notes to the accounts list all disclosable donations to the party in the period covered by the accounts.
98. The Commission may prescribe different requirements according to whether the income or expenditure of a party falls into one of three bands (up to £5,000; between £5,000 and £250,000; over £250,000). The intention is that, where a party has only a small turnover,

the Electoral Commission should be able to apply a 'light touch' regime requiring only a simple annual statement.

Section 43 : Annual audits

99. *Section 43* requires a party which has an annual income or expenditure exceeding £250,000 in any financial year (this threshold parallels that which applies to charities) must have its accounts audited within six months of the end of the financial year. The Electoral Commission may also require the accounts of any other party to be similarly audited within three months of it so directing. If a party fails to comply with an auditing requirement, the Commission may appoint a qualified auditor to audit the party's accounts and the cost will be recoverable by the Commission from the party concerned. *Subsection (6)* enables the Electoral Commission to make regulations about the appointment and removal of auditors and specifying the duties of auditors carrying out an audit in accordance with this section.

Section 44 : Supplementary provisions about auditors

100. *Section 44* provides for an auditor to have access to the party's records and to be entitled to require the party's treasurer or other party officers to provide necessary information and explanations. If access or information is denied, the Electoral Commission may give written directions requiring a person to provide an auditor with access or information and, if those directions are not complied with, the Commission can in the last resort apply to the High Court for the offending person to be dealt with as if he were in contempt of court.

Section 45 : Submission of statements of accounts etc. to Commission

101. *Section 45* requires the treasurer of a registered party to submit its statement of accounts (and, in appropriate cases, the auditor's report) to the Electoral Commission. Statements of accounts must be submitted within three months of the end of a party's financial year or, where the party's accounts are required to be audited, within six months and seven days of the end of the financial year. *Subsection (3)* allows the Commission to extend the period for submission of these documents in particular cases for any special reason. A party's registered treasurer must submit with the annual statement of accounts the notification (required under section 32(1)) detailing any changes which are needed to the party's entry in the relevant register of political parties.

Section 46 : Public inspection of parties' statements of accounts

102. *Section 46* requires the Electoral Commission to make parties' statements of accounts available for public inspection as soon as practicable following their receipt.

Section 47 : Criminal penalty for failure to submit proper statements of accounts

103. *Section 47* creates criminal offences for failure to comply with the provisions of Part III. The offences are intended to catch a failure to duly prepare, as well as a failure to duly deliver, a statement of accounts. *Subsections (2) and (3)* contain defences.

Section 48 : Revision of defective statement of accounts

104. *Section 48* makes provision for the revision of statements of accounts which do not comply with the Commission's regulations. The section is based on like provisions as to companies' accounts in sections 245 to 245B of the Companies Act 1985, as substituted by the Companies Act 1989.

Section 49 and Schedule 5 : Division of responsibilities in case of party with accounting units

105. *Section 49* has the result that where a party is a party with accounting units (as defined in section 26), the central organisation of the party and each of the party's accounting units are independently responsible for complying with the accounting requirements as set out in Part III. This means that, in the case of a national party with a network of constituency associations and ward-level branches, each association and branch will maintain their own accounting records and produce their own annual statements of accounts, thereby absolving the central organisation from having to produce omnibus accounts for the whole party. The provisions of sections 41 to 48 are applied, with adaptations, to accounting units by *Schedule 5*. Under *paragraph 6(1) of Schedule 5* the requirement to submit an annual statement of accounts to the Electoral Commission will only apply automatically to accounting units which have an income or expenditure exceeding £25,000. However, *paragraph 6(2)* enables the Electoral Commission to require any other accounting unit to send to the Commission its statement of accounts and any auditor's report. Only those statements of accounts submitted to the Commission are open for public inspection under the Act.